FEDERAL REGISTER

VOLUME 32 • NUMBER 243

Saturday, December 16, 1967 • Washington, D.C.

Pages 18011–18075

DEC 18 1967
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Federal Aviation Administration
Federal Highway Administration
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Federal Power Commission
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Federal Trade Commission
Fiscal Service
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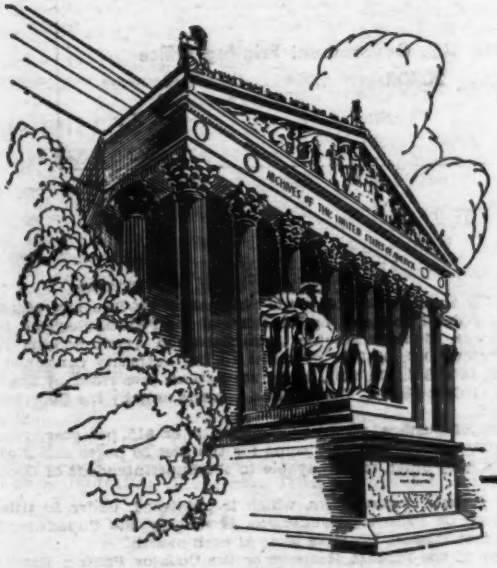

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FEDERAL REGISTER

Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration (mail address National Archives Building, Washington, D.C. 20408), pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Black Stem Rust

QUARANTINE AND REGULATIONS

Pursuant to sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), Notice of Quarantine No. 38 relating to black stem rust and regulations supplemental to said quarantine (7 CFR 301.38, 301.38–1, 301.38–2, 301.38–3 through 301.38–9), are hereby revised to read as follows:

QUARANTINE AND REGULATIONS

Sec.

301.38 Quarantine; restriction on interstate movement of specified regulated articles.
301.38–1 Definitions.
301.38–2 Authorization for Director to list eradication areas.
301.38–3 Conditions governing the interstate movement of regulated articles from quarantined States.
301.38–4 Issuance and cancellation of certificates and permits.
301.38–5 Compliance agreements; and cancellation thereof.
301.38–6 Assembly and inspection of regulated articles.
301.38–7 Attachment and disposition of certificates or permits.
301.38–8 Inspection and disposal of regulated articles and pests.
301.38–9 Movement of black stem rust spores.
301.38–10 Nonliability of the Department.

AUTHORITY: The provisions of this subpart issued under secs. 8, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 29 F.R. 16210, as amended, 30 F.R. 5799, as amended.

QUARANTINE AND REGULATIONS

§ 301.38 Quarantine; restriction on interstate movement of specified regulated articles.

(a) *Notice of quarantine.* Pursuant to the provisions of section 8 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 150ee), the Secretary of Agriculture heretofore determined, after public hearing, that it was necessary to quarantine all States within the conterminous United States and the District of Columbia in order to prevent the spread of black stem rust (Puccinia graminis), a dangerous plant disease of small grains, and accordingly quarantined said States and District. Under the authority of said provisions, the Secretary hereby continues such quarantine in effect with respect to the interstate movement from the quarantined States and the District of the articles described in paragraph (b) of this section, issues the regulations in this subpart governing such movement, and gives notice of said quarantine and regulations.

(b) *Quarantine restrictions on interstate movement of specified regulated articles.* No common carrier or other person shall move interstate from any quarantined State or District of the United States any of the following articles (defined in § 301.38–1(l) as regulated articles), except in accordance with the conditions prescribed in this subpart: All plants, seeds, fruits, and other parts of plants which are capable of propagation, and belong in the genera Berberis, Mahoberberis, or Mahonia, except Mahonia cuttings for decorative purposes.

§ 301.38–1 Definitions.

Terms used in the singular form in this subpart shall be deemed to import the plural, and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

(a) *Black stem rust.* The disease commonly known as the black stem rust of grains (Puccinia graminis).

(b) *Certificate.* A document issued or authorized to be issued under this subpart by an inspector to allow the interstate movement of regulated articles to any destination.

(c) *Compliance agreement.* A written agreement between a person engaged in growing, handling, or moving regulated articles, and the Plant Pest Control Division, wherein the former agrees to comply with the requirements of this subpart identified in the agreement by the inspector who executes the agreement on behalf of the Division as applicable to the operations of such person.

(d) *Director.* The Director of the Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, or any other officer or employee of said Service to whom authority to act in his stead has been or may hereafter be delegated.

(e) *Eradication area.* Any quarantined State or District, or portion of a State or District, listed as an eradication area in § 301.38–2a by the Director in accordance with § 301.38–2.

(f) *Inspector.* Any employee of the Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, or other person, authorized by the Director to enforce the provisions of the quarantine and regulations in this subpart.

(g) *Interstate.* From any State, Territory, or District of the United States into or through any other State, Territory, or District of the United States (including Puerto Rico).

(h) *Limited permit.* A document issued or authorized to be issued by an inspector to allow the interstate movement of noncertified regulated articles to a specified destination for limited handling or utilization.

(i) *Moved (movement, move).* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved or allowed to be moved by any means. "Movement" and "move" shall be construed accordingly.

(j) *One year's growth.* The growth of a plant during all growing seasons of any calendar year.

(k) *Person.* Any individual, corporation, company, society, or association, or other organized group of any of the foregoing.

(l) *Regulated articles.* Any articles described in § 301.38(b).

(m) *Restricted destination permit.* A document issued or authorized to be issued by an inspector to allow the interstate movement of regulated articles not certified under all applicable Federal domestic plant quarantines to a specified destination for other than scientific purposes.

(n) *Rust-resistant plants.* Berberis, Mahoberberis, and Mahonia plants listed as rust-resistant by the Director in the "Manual of Administratively Authorized Procedures to be Used Under the Black Stem Rust Quarantine".[1]

(o) *Scientific permit.* A document issued by the Director to allow the interstate movement to a specified destination of regulated articles for scientific purposes.

(p) *Seedlings.* Any plant grown from seed within the genus Berberis of less than 2 years' growth.

(q) *Treatment manual.* The provisions currently contained in the "Manual of Administratively Authorized Procedures To Be Used Under the Black Stem Rust Quarantine" and any amendments thereto.[2]

(r) *Two years' growth.* The growth of a plant during all growing seasons of 2 successive calendar years.

§ 301.38–2 Authorization for Director to list eradication areas.

The Director shall list as eradication areas in a supplemental regulation designated as § 301.38–2a, the quarantined

[1] A pamphlet containing a list of rust-resistant plants is available, upon request, from the Director of the Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, Hyattsville, Md. 20782, or from an inspector.

[2] A pamphlet containing such provisions is available, upon request, from the Director of the Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, Hyattsville, Md. 20782, or from an inspector.

States or Districts, or portions of States or Districts, which have adopted and are enforcing specific procedures to eradicate Berberis, Mahoberberis, and Mahonia plants susceptible to black stem rust, in cooperation with the Plant Pest Control Division; and shall amend such list from time to time as the facts warrant.

§ 301.38–3 Conditions governing the interstate movement of regulated articles from quarantined States.[2]

The following regulated articles may be moved interstate from a quarantined State or District under this subpart if all of the applicable conditions as specified below have been fulfilled and if certificates or permits are issued and attached in accordance with §§ 301.38–4 and 301.38–7:

(a) *Rust-resistant Berberis, Mahoberberis, and Mahonia plants.* (1) Seedlings of rust-resistant Berberis plants may be moved interstate if accompanied by a permit, to any destination authorized by such permit.

(2) Rust-resistant Berberis plants of at least 2 years' growth, Mahoberberis and Mahonia plants, and cuttings taken from such plants, may be moved interstate to any destination if an inspector determines that the plants and cuttings are true to type and if the plants and cuttings are accompanied by a certificate or permit.

(b) *Seeds and fruits of rust-resistant Berberis plants.* (1) Seeds and fruits of rust-resistant Berberis plants originating within an eradication area may be moved interstate between eradication areas if accompanied by a permit.

(2) Seeds and fruits of rust-resistant Berberis plants may be moved interstate between noneradication areas and from an eradication area to a noneradication area without further restriction under this subpart.

(c) *Seeds and fruits of rust-resistant Mahonia plants.* (1) Seeds and fruits of rust-resistant Mahonia plants originating within an eradication area may be moved interstate between eradication areas if accompanied by a permit.

(2) Seeds and fruits determined by an inspector to be from rust-resistant Mahonia plants originating in a noneradication area may be moved interstate from such an area into an eradication area if accompanied by a permit.

(3) Seeds and fruits of rust-resistant Mahonia plants may be moved interstate between noneradication areas and from an eradication area to a noneradication area without further restriction under this subpart.

(d) *Any regulated articles.* Any regulated articles may be moved to a specified destination authorized by the Director under a scientific permit.

§ 301.38–4 Issuance and cancellation of certificates and permits.

(a) Certificates may be issued for any regulated articles by an inspector if he determines that they are eligible for certification for movement to any destination under all Federal domestic plant quarantines applicable to such articles and upon examination they have been found to be free from evidence of black stem rust and to be rust-resistant.

(b) Limited permits may be issued by an inspector to allow interstate movement of regulated articles, not eligible for certification under this subpart, to specified destinations for limited handling or utilization, when upon evaluation of the circumstances involved in each specific case he determines that such movement will not result in the spread of the black stem rust and requirements of other applicable Federal domestic plant quarantines have been met.

(c) Restricted destination permits may be issued by an inspector to allow the interstate movement of regulated articles for other than scientific purposes to any destination permitted under all applicable Federal domestic plant quarantines, if such articles are not eligible for certification under all such quarantines, but would otherwise qualify for certification under this subpart.

(d) Scientific permits may be issued by the Director to allow the interstate movement of regulated articles for scientific purposes under such conditions as may be prescribed in each specific case by the Director.

(e) Certificate, limited permit, and restricted destination permit forms may be issued by an inspector to any person for use by the latter for subsequent shipments provided such person is operating under a compliance agreement; and any such person may be authorized by an inspector to reproduce such forms on shipping containers or otherwise. Any such person may use the certificate forms, or reproductions of such forms, for the interstate movement of regulated articles from the premises of such person identified in the compliance agreement if such person has made the determination specified in paragraph (a) of this section with respect to such articles. Any such person may use the limited permit forms, or reproductions of such forms, for interstate movement of regulated articles to specific destinations authorized by the inspector in accordance with paragraph (b) of this section. Any such person may use the restricted destination permit forms, or reproductions of such forms, for the interstate movement of regulated articles not eligible for certification under all Federal domestic plant quarantines applicable to such articles, under the conditions specified in paragraph (c) of this section.

(f) Any certificate or permit which has been issued or authorized may be withdrawn by the inspector if he determines that the holder thereof has not complied with any condition for the use of such document imposed by this subpart.

§ 301.38–5 Compliance agreements; and cancellation thereof.

(a) Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of such articles under this subpart. Compliance agreement forms may be obtained from the Director or an inspector.

(b) Any compliance agreement may be canceled by the inspector who is supervising its enforcement whenever he finds, after notice and reasonable opportunity to present views has been accorded to the other party thereto, that such other party has failed to comply with the conditions of the agreement.

§ 301.38–6 Assembly and inspection of regulated articles.

Persons (other than those authorized to use certificates, limited permits, or restricted destination permits, or reproductions thereof, under § 301.38–4(e)) who desire to move interstate regulated articles which must be accompanied by a certificate or permit shall, as far in advance as possible, request an inspector to examine the articles prior to movement. Such articles shall be assembled at such points and in such manner as the inspector designates to facilitate inspection.

§ 301.38–7 Attachment and disposition of certificates or permits.

(a) If a certificate or permit is required for the interstate movement of regulated articles, the certificate or permit shall be securely attached to the outside of the container in which such articles are moved, except that, where the certificate or permit is attached to the waybill or other shipping document, and the regulated articles are adequately described on the certificate, permit, or shipping document, the attachment of the certificate or permit to each container of the articles is not required.

(b) In all cases, certificates or permits shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.38–8 Inspection and disposal of regulated articles and pests.

Any properly identified inspector is authorized to stop and inspect, and to seize, destroy, or otherwise dispose of, or require disposal of regulated articles and black stem rust spores as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and section 105 of the Plant Pest Act (7 U.S.C. 150dd), in accordance with instructions issued by the Director.

§ 301.38–9 Movement of black stem rust spores.

Regulations requiring a permit for, and otherwise governing the movement of black stem rust spores in interstate or foreign commerce, are contained in the Federal Plant Pest regulations in Part 330 of this chapter. Applications for the movement of such spores may be made to the Director.

§ 301.38–10 Nonliability of the Department.

The U.S. Department of Agriculture disclaims liability for any costs incident to inspections or compliance with provisions of the quarantine and regulations

[2] Requirements under all other applicable Federal domestic plant quarantines must also be met.

in this subpart, other than for the services of the inspector.

This revision of the black stem rust quarantine and regulations removes the restriction that Mahonia seedlings be held through one year's growth and that Mahoberberis plants be held through two years' growth to determine that they are true to type. The revision also makes it unnecessary for nurserymen to be on the list of specifically approved sources as a basis for moving regulated articles and now requires the movement of all such articles to be under certificate or permit. The list of specifically approved sources (§ 301.38–2b, effective Oct. 29, 1966) is hereby canceled. Provisions are also added under which certificates will not be issued or authorized to be issued for regulated articles unless the articles are certifiable under all applicable Federal domestic plant quarantine requirements; and, restricted destination permits are authorized. The list of rust-resistant plants (§ 301.38–2a, effective Oct. 29, 1966) is hereby canceled. The list of rust-resistant plants will now be included in the "Manual of Administratively Authorized Procedures To Be Used Under the Black Stem Rust Quarantine". Nonsubstantive changes are made to simplify and clarify the black stem rust quarantine and regulations.

In most respects, the revision does not make more stringent requirements than are presently applied, and, in some respects, it relieves restrictions. Insofar as it relieves restrictions, it should be made effective promptly in order to be of maximum benefit to persons subject to the restrictions being relieved. Insofar as the revision imposes more stringent requirements than are now applicable, it should be made effective promptly in order to prevent the spread of black stem rust. Therefore, under the administrative procedures provisions of 5 U.S.C. 553, it is found upon good cause that notice of rule making and other public procedure with respect to these provisions are impracticable and unnecessary and good cause is found for making the revision effective less than 30 days after publication in the FEDERAL REGISTER.

This revision shall become effective upon publication in the FEDERAL REGISTER when it shall supersede Quarantine No. 38 effective October 29, 1966 (31 F.R. 13887).

Done at Washington, D.C., this 12th day of December 1967.

[SEAL] R. J. ANDERSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 67–14641; Filed, Dec. 15, 1967; 8:48 a.m.]

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Black Stem Rust

ERADICATION AREAS

Under the authority of § 301.38–2 of the Black Stem Rust Quarantine regulations (7 CFR 301.38–2, as amended [1]), a supplemental regulation designating eradication areas is hereby issued to appear in 7 CFR 301.38–2a, as follows:

§ 301.38–2a Eradication areas.

The States, or portions of States, designated below have adopted and are enforcing specific procedures to eradicate Berberis, Mahoberberis, and Mahonia plants susceptible to black stem rust in cooperation with the Plant Pest Control Division. Therefore, such States, or portions of States, are designated as eradication areas within the meaning of the provisions of this subpart:

All counties within the States of:

Colorado.	Montana.
Illinois.	Nebraska.
Indiana.	North Dakota.
Iowa.	Ohio.
Kansas.	South Dakota.
Michigan.	West Virginia.
Minnesota.	Wisconsin.
Missouri.	Wyoming.

All portions of the following States except the counties and cities specified:

Pennsylvania. Delaware and Philadelphia Counties.

Virginia. Accomack, Amelia, Brunswick, Caroline, Charles City, Charlotte, Chesterfield, Cumberland, Dinwiddie, Elizabeth City, Essex, Gloucester, Goochland, Greensville, Halifax, Hanover, Henrico, Henry, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Lunenburg, Mathews, Mecklenburg, Middlesex, Nansemond, New Kent, Northampton, Northumberland, Nottoway, Patrick, Pittsylvania, Powhatan, Prince Edward, Prince George, Richmond, Southampton, Sussex, Surry, Warwick, Westmoreland, and York Counties; and, the cities of Norfolk and Virginia Beach.

Washington. Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pierce, San Juan, Skagit, Skamania, Snohomish, Thurston, Wahkiakum, and Whatcom Counties.

(29 F.R. 16210, as amended; 30 F.R. 5799, as amended; 7 CFR 301.38–2, as amended)

Norfolk and Princess Anne counties have been reclassified by the State of Virginia and are now designated as the cities of Norfolk and Virginia Beach. The purpose of this revision is to delete Norfolk and Princess Anne Counties, Va., from the list of those counties where eradication work is not undertaken in the State of Virginia and to substitute therefor the cities of Norfolk and Virginia Beach. This revision neither includes additional restrictions nor modifies those currently imposed. Therefore, under the administrative procedures provisions of 5 U.S.C. 553, it is found upon good cause that notice of rule making and other public procedure with respect to the revision are impracticable and unnecessary, and good cause is found for making the revision effective less than 30 days after publication in the FEDERAL REGISTER.

This revision shall become effective upon publication in the FEDERAL REGISTER when it shall supersede § 301.38–2c, effective May 19, 1967 (32 F.R. 7437).

[1] See F.R. Doc. 67–14641 *supra.*

Done at Hyattsville, Md., this 13th day of December 1967.

[SEAL] D. R. SHEPHERD,
Director,
Plant Pest Control Division.

[F.R. Doc. 67–14642; Filed, Dec. 15, 1967; 8:48 a.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 299]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.599 Lemon Regulation 299.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period

herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 12, 1967.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period December 17, 1967, through December 23, 1967, are hereby fixed as follows:

(i) District 1: 18,600 cartons;

(ii) District 2: 46,500 cartons;

(iii) District 3: 130,200 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Secs 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 14, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-14670; Filed, Dec. 15, 1967; 8:49 a.m.]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Expenses and Rate of Assessment

On November 28, 1967, notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 16220) regarding the proposed expenses and the proposed rate of assessment for the period November 1, 1967, through October 31, 1968, pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in the States of California and Arizona. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Lemon Administrative Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 910.206 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and necessary to be incurred by the Lemon Administrative Committee during the period November 1, 1967, through October 31, 1968, will amount to $224,316.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 910.41, is fixed at $0.018 per carton of lemons.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of the current crop of lemons grown in the designated production area are now being made; (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all accessible lemons handled during the aforesaid period, and (3) such period began on November 1, 1967, and said rate of assessment will automatically apply to all such lemons beginning with such date.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 12, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-14626; Filed, Dec. 15, 1967; 8:46 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER C—EXPORT PROGRAMS

[Amdt. 3]

PART 1488—FINANCING OF SALES OF AGRICULTURAL COMMODITIES

Subpart A—Financing of Export Sales of Agricultural Commodities From Private Stocks Under CCC Export Credit Sales Program (GSM-4)

MISCELLANEOUS AMENDMENTS

The regulations in this Subpart A, Part 1488, containing the terms and conditions governing the Commodity Credit Corporation Export Credit Sales Program, published in the FEDERAL REGISTER of April 27, 1967 (32 F.R. 6496-6500), as corrected on May 4, 1967 (32 F.R. 6836), and as amended on May 19, 1967 (32 F.R. 7437), and August 8, 1967 (32 F.R. 11416-17), are further amended as follows:

1. A new subheading is added before § 1488.1 which reads; "General Regulations".

2. Section 1488.1 *General statement* is amended by adding the following new paragraph (d):

§ 1488.1 General statement.

* * * * *

(d) The regulations contained in this Subpart A may be supplemented by such additional terms and conditions, applicable to specified agricultural commodities, as may be set forth in supplements hereto, and, to the extent that they may be in conflict or inconsistent with any other provisions of this Subpart A, such additional terms and conditions shall prevail.

3. In addition to the other provisions of the regulations in Part 1488, Subpart A, the following additional subheading and special provisions are added with respect to the financing of export credit sales of beef breeding cattle under this Subpart A:

SUPPLEMENT I—BEEF BREEDING CATTLE

A. Additional definitions.
B. Submission of applications for financing.
C. Additional documents required after export.
D. Miscellaneous.

A. *Additional definitions.* 1. "Port value" means the net amount of the exporter's sales price for beef breeding cattle to be exported under the financing agreement, basis f.a.s. or f.o.b. export carrier at U.S. ports, at U.S. border points of exit, or at U.S. points of flight if transported by air freight; provided the point of exportation is designated for animals by the Agricultural Research Service, U.S. Department of Agriculture. The port value shall not include the ocean freight for a c. & f. sale or ocean freight and marine and war risk insurance for a c.i.f. sale, and shall also not include any animal care or servicing cost incurred after such animals are loaded aboard the export carrier. The net amount of the exporter's sales price means the contract price for the animals less any payments made by the importer and less any discounts, credits, or allowances to the importer. Such net amount shall not exceed (a) for registered bulls, $1200 each or, with prior approval of the General Sales Manager, $2500 if performance has been superior to the performance records specified in Exhibit II attached hereto; (b) for registered females, $600 each, or, with prior approval of the General Sales Manager, $1000 if performance has been superior to the performance records specified in Exhibit I attached hereto; (c) for nonregistered females, an average, for the sale, of $450 each or, with prior approval of the General Sales Manager, $650 if performance has been superior to the performance records specified in said Exhibit I. The difference, if any, between the maximum net amount specified in (a), (b), or (c) of this paragraph 1 and the contract price for the individual animal, if registered, or the average contract price for the individual animal, if nonregistered, shall not be included as part of the port value.

2. "Producer" means the person holding legal title to the animal at time of birth and who has had continuous ownership of such animal until sold for export under an approved financing agreement.

3. "Bred female" means either a bred heifer or bred cow as set forth in Exhibit I, Option B, which has been certified to as pregnant at the time of inspection.

4. "Breeder" means the person holding legal title to the female animal at the time she was served to qualify such animal hereunder as a bred female.

5. "Eligible animal" means an animal which meets all the following requirements:

(a) The animal must be the progeny of a nationally recognized beef cattle breed (Exhibits I and II);

(b) The animal must have been owned by a person who had continuous title to such animal for a period of at least 90 days immediately before acquisition by the exporter, unless the exporter is the producer of the animal;

(c) The animal must, at the time of export, have an eartag attached by USDA testing authority; and

(d) The animal must qualify under the specifications of Exhibit I for females and Exhibit II for bulls.

6. "Registered animal" means:

An eligible animal which the appropriate national breed association has officially registered or otherwise classified as a purebred animal of that breed. Such animal must be marked with a legible tattoo or brand which corresponds with the number shown in the certificate of registration or other official document issued by the appropriate national breed association.

7. "Nonregistered animal" means:

An eligible animal, whether or not purebred, which is predominantly of the color characteristics and body conformation of the beef breed stated in the contract between the exporter and the importer. (See Exhibits I and II.)

B. *Submission of applications for financing.* 1. In addition to the information required by section 1488.3(c) (2) through (7), applications for financing export credit sales of beef breeding cattle shall include the following:

(a) A general description by breed of the animals to be exported, separately describing the animals under the following classes:

(1) Registered bulls;
(2) Registered bred females;
(3) Registered unbred females;
(4) Nonregistered bred females; and
(5) Nonregistered unbred females.

(b) A statement that such animals will conform to the general specification requirements set forth in Exhibit I or II, as applicable to the class of animals to be exported.

2. In addition to the justifications specified in § 1488.3(d), a financing period in excess of 6 months but not in excess of 36 months for beef breeding cattle may be justified when it will result in the use by the importer, or by purchasers from the importer, of the animals in the destination country under conditions which will promote expanded demand for additional breeding animals or feed stuffs from the United States.

3. An application for financing an export credit sale of beef breeding cattle shall be accompanied by a written statement, by (a) an official of the appropriate ministry or department of the importing country or (b) the U.S. agricultural attaché or other designated U.S. employee, that the importer is qualified, by experience or otherwise, to receive, unload and clear for import, feed and house cattle.

C. *Additional documents required after export.* In addition to the documents specified in § 1488.9(a) (1), (2), (3), (4), (6), and (7), the exporter shall submit the following documents to the Treasurer, Commodity Credit Corporation:

1. Separate animal tag lists for registered animals and for nonregistered animals, containing the following information:

(a) Eartag identification number.

(b) For each registered animal, shown separately opposite the identification number, the sales price as specified in the sales invoice to the foreign importer.

(c) For nonregistered animals, shown for each lot group by tag list, the average sales price per animal based upon the sales invoice for such nonregistered animals.

2. Performance records for animals for which a higher maximum port value has been approved by the General Sales Manager as provided in paragraph A. 1.

3. A certification by the exporter that animals of the description in the exporter's sales contract with the foreign importer have been delivered, and that the exporter knows of no defenses to the account receivable assigned to CCC.

D. *Miscellaneous.* The following documents or certifications, as applicable, shall be furnished to the importer by the exporter:

1. The certificates issued by an agent of the Consumer and Marketing Service, U.S. Department of Agriculture, as to official registration of the animal(s) and listing the eartag number(s), corresponding registration certificate and tattoo numbers for each registered animal showing that such numbers have been verified as legible and accurate for such animal, and that the person holding legal title to the animal at the time of export sale has appropriately executed such certificate for transfer to the party designated by the importer. (See Exhibit I or II.)

2. A certification by the breeder of females sold as "bred females" showing the eartag numbers and stating that the service bull was a registered bull of the same beef cattle breed as the female to which bred. (See Exhibit I.)

3. The certificates issued or endorsed by the Animal Health Division, Agricultural Research Service, listing the eartag number(s) and showing that such animal has been inspected for compliance with "Health" requirements. (See Exhibit I or II.)

4. The certificates issued by the Consumer and Marketing Service listing the eartag number(s) for each animal showing for such animal compliance with breed, age, weight, and conformation grade, for the class, as shown in Exhibit I or II, as applicable.

5. Certificates issued by a veterinarian accredited by the Agricultural Research Service, showing that bred females, sold as such, were examined and found to be with calf at time of inspection.

6. A semen certification by a veterinarian accredited by the Agricultural Research Service, for bulls over 1 year of age.

(Sec. 5(f), 62 Stat. 1072, 15 U.S.C. 714c; sec. 407, 63 Stat. 1055, as amended, 7 U.S.C. 1427; sec. 4, Public Law 89-808, 80 Stat. 1538)

Effective date: Date of signature.

Signed at Washington, D.C. on December 12, 1967.

RAYMOND A. IOANES,
Vice President, Commodity Credit Corporation, and Administrator, Foreign Agricultural Service.

EXHIBIT I

USDA APPROVED BEEF BREEDING CATTLE EXPORT SPECIFICATIONS—FEMALES

Option A (to be specified by purchaser):

1. Registered: [1]

Breed

a. Angus.
b. Hereford.
c. Polled Hereford.
d. Charolais.
e. Santa Gertrudis.
f. Shorthorn.
g. Polled Shorthorn.
h. Brahman.

2. Nonregistered.[2]

Predominant Breed (specify from breed above)

Option B (to be specified by purchaser):

Age [3]

1. Calf—(7–12 months old).
2. Yearling open—(12–18 months old).
3. Bred heifer—(18–24 months old).
4. Bred cow—(36–48 months old).

General requirements:

A. Health: [4]

1. Tested negative for tuberculosis within 30 days of loading aboard export carrier.

2. Tested negative for brucellosis within 30 days of loading aboard export carrier, or is an official vaccinate under thirty months of age.

3. Certified from a country where foot-and-mouth disease has not existed since 1929; contagious bovine pleuropneumonia has not existed since 1892; and rinderpest has never occurred.

4. Animals come from farms that have not been under State or Federal quarantine for any communicable disease during the past year.

5. Animals have been inspected and found sound (including freedom from blindness, structual defects, etc.), free of evidence of communicable disease and exposure thereto, and free of mites, ticks, and ringworm, or freed from the same.

B. Minimum weight: [5]

1. Calf—400 pounds.
2. Yearling—500 pounds.
3. Bred Heifer—700 pounds.
4. Bred Cow—950 pounds.

C. Minimum conformation—Choice.[6]

All nonregistered females must be dehorned or naturally polled. Horn stubs in excess of one inch will not be acceptable.

D. Performance records [6] (optional, unless specified). (See attached Appendix I to Exhibits I and II.)

1. Minimum adjusted daily gain to weaning 1.6 pounds per day.

2. Minimum adjusted daily gain to weaning of offspring 1.6 pounds per day (if appropriate).

E. Statement of Service:

1. Bred females must have been bred to a registered bull of the same breed and the calf from a registered female must be eligible for registration.[7]

2. Bred animals must be at least 2 months but no more than 5 months pregnant at time of inspection.[8]

EXHIBIT II

USDA APPROVED BEEF BREEDING CATTLE EXPORT SPECIFICATIONS—BULLS

All animals for delivery under these specifications must be registered with the appropriate National Breed Association.[1]

Option A (to be specified by purchaser):

Breed

1. Angus.
2. Hereford.
3. Polled Hereford.
4. Charolais.
5. Santa Gertrudis.
6. Shorthorn.
7. Polled Shorthorn.
8. Brahman.

Option B (to be specified by purchaser):

Age [3]

1. Bull calf—(7–12 months old).
2. Yearling bull—(12–18 months old).
3. Bull—(18–24 months old).
4. Mature bull—(36–48 months old).

General requirements:

A. Health: [9]

1. Tested negative for tuberculosis within 30 days of loading aboard export carrier.

2. Tested negative for brucellosis within 30 days of loading aboard export carrier.

3. Certified from a country where foot-and-mouth disease has not existed since 1929; contagious bovine pleuropneumonia has not existed since 1892; and rinderpest has never occurred.

4. Animals come from farms that have not been under State or Federal quarantine for any communicable disease during the past year.

5. Animals have been inspected and found sound (including freedom from blindness, structural defects, etc.), free of evidence of communicable disease and exposure thereto, and free of mites, ticks, and ringworm, or freed from the same.

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[1] Animals must be officially registered with the appropriate National Breed Association and be so certified by C&MS agent.

[2] Nonregistered animals will be certified for breed by the C&MS agent.

[3] Certification by C&MS agent.

[4] Certification or endorsement furnished by Animal Health Division, Agricultural Research Service, USDA.

[5] Certification furnished by Livestock Division, C&MS, USDA. Conformation grade to be based on official USDA Feeder Cattle Standards. (See Appendix II attached.)

[6] Official State records or National Breed Association records, or Performance Registry International records.

[7] Must be certified to by the breeder of the female at time of sale to exporter.

[8] The certification of pregnancy shall be issued by an accredited veterinarian.

[1] Animals must be officially registered with the appropriate National Breed Association and be so certified by C&MS agent.

[3] Certification by C&MS agent.

[9] Certification or endorsement furnished by Animal Health Division, Agricultural Research Service, USDA.

B. Minimum weight:[4]
1. 7–12 months—470 pounds.
2. 12–18 months—790 pounds.
3. 18–24 months—1100 pounds.
4. Over 24 months—1350 pounds.
C. Minimum conformation—Prime.[4]

D. Performance records[5] (optional, unless specified). (See attached Appendix I to Exhibits I and II.)

1. Minimum adjusted daily gain to weaning 1.9 pounds per day.

E. A semen check indicating at least 60 percent sperm motility must be supplied for bulls over 1 year of age.[6]

APPENDIX I TO EXHIBITS I AND II

PERFORMANCE TESTING

Performance testing is known by several names in the United States, but practically all organizations evaluate similar characteristics in beef cattle. The two principle factors evaluated are growth rate and/or conformation. Animals which are tested are weighed at birth and again at weaning. The weaning weight is adjusted to an equivalent of 205 days of age and is also adjusted depending on the age of the dam. This is done to make weights of calves from first-calf heifers comparable to weights of calves from older cows.

The adjusted daily gain from birth to weaning is indicative not only of inherited gaining ability but also of the milking ability of the dam.

APPENDIX II TO EXHIBITS I AND II

SPECIFICATIONS FOR OFFICIAL UNITED STATES STANDARDS FOR GRADES OF FEEDER CATTLE (STEERS, HEIFERS AND COWS)[1]

Prime

Feeder cattle which possess typical minimum qualifications for the Prime grade are very thickly muscled throughout. They are wide through the chest with well sprung ribs and are moderately wide and thick through the crops, back and loin. The rounds tend to be thick and the twist is moderately deep. They usually have straight top and bottom lines and usually are moderately deep in the fore and rear flanks. The legs tend to be short, are set wide apart, and usually are straight. The head is usually short and wide and the neck usually is short and thick. They have large, rugged frames with moderately large but refined bone. They have a high degree of symmetry and smoothness throughout.

Choice

Feeder cattle which possess typical minimum qualifications for the Choice grade are thickly muscled throughout. They are moderately wide through the chest with a moderate spring of ribs and are slightly wide and thick through the crops, back and loin. The rounds are slightly thick and the twist is slightly deep. They usually have straight top lines and usually are moderately deep in the fore and rear flanks. The legs are slightly short, and are set moderately wide apart and usually are straight. The head usually is moderately short and wide and the neck usually is slightly short and thick. They have moderately large, rugged frames, and the bone usually is moderately large, but may be slightly fine or slightly large and coarse. They have a moderate degree of symmetry and smoothness throughout.

[F.R. Doc. 67–14625; Filed, Dec. 15, 1967; 8:46 a.m.]

[4] Certification furnished by Livestock Division, C&MS, USDA. Conformation grade based on official USDA Feeder Cattle Standards. (See Appendix II attached.)

[5] Official State records or National Breed Association records, or Performance Registry International records.

[6] Certification must be issued by an accredited veterinarian.

[1] Adopted from Service and Regulatory Announcement C&MS 183, issued March 1965. A copy of this publication and charts picturing the grades of feeder cattle may be obtained upon request from the Livestock Division, C&MS, USDA, Washington, D.C. 20250.

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 67–CE–159]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Sault Ste Marie, Mich. (Kincheloe AFB), control zone.

The Kincheloe AFB VOR will be decommissioned on February 1, 1968. The instrument approach procedures predicated on the Kincheloe AFB VOR will be canceled effective on the decommissioning date. As a result, controlled airspace for the protection of aircraft executing these canceled procedures is no longer required. Therefore, alteration of the Sault Ste Marie, Mich. (Kincheloe AFB), control zone is necessary to delete this airspace from the control zone designation.

Since the proposed alteration will reduce the existing designated Sault Ste Marie, Mich. (Kincheloe AFB), control zone it will not impose any additional burden on any person. Therefore, notice and public procedure hereon will be unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective February 1, 1968, as hereinafter set forth:

In § 71.171 (32 F.R. 2071), the following control zone is amended to read:

SAULT STE MARIE, MICH. (KINCHELOE AFB)

Within a 5-mile radius of Kincheloe AFB (latitude 46°15'00" N., longitude 84°28'00" W.); within 2 miles each side of the Kincheloe AFB TACAN 143° radial, extending from the 5-mile radius zone to 8 miles southeast of the TACAN; within 2 miles each side of the Kincheloe AFB TACAN 337° radial extending from the 5-mile radius zone to 8 miles northwest of the TACAN; and within 2 miles each side of the Kincheloe AFB ILS localizer northwest course, extending from the 5-mile radius zone to the OM.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued at Kansas City, Mo., on November 30, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67–14618; Filed, Dec. 15, 1967; 8:46 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. No. ER–520]

PART 214—TERMS, CONDITIONS, AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS AUTHORIZING CHARTER TRANSPORTATION ONLY

Deletion of Reporting Requirement

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 22d of November 1967.

By ER–519, adopted November 22, 1967, issued simultaneously herewith, the Board has promulgated a new Part 217 which will require the reporting of civilian charter travel information by all foreign air carriers in a new CAB Form 217 report, to be submitted quarterly. With the enactment of Part 217, the Board will no longer need the annual reports called for by § 214.5,[1] which are applicable solely to foreign charter carriers and which are essentially duplicative of those required by the new part. Therefore, § 214.5 will be deleted.[2]

Since this amendment relieves a restriction and will not adversely affect any person, we find that notice and public procedure herein are not required and that the amendment should be made effective upon the effective date of Part 217.

Accordingly, the Board hereby amends Part 214 of the Economic Regulations (14 CFR Part 214), effective January 1, 1968, as follows: Section 214.5 is deleted.

(Secs. 204(a), 402, Federal Aviation Act of 1958, as amended; 72 Stat. 743, 757; 49 U.S.C. 1324, 1372)

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 67–14648; Filed, Dec. 15, 1967; 8:49 a.m.]

[Reg. No. ER–519]

PART 217—REPORTING DATA PERTAINING TO CIVIL AIRCRAFT CHARTERS PERFORMED BY FOREIGN AIR CARRIERS

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22d day of November 1967.

In EDR–122, August 1, 1967, 32 F.R. 11337, the Board proposed to issue a new Part 217 which would require all foreign air carriers to report civilian charter travel information on a new CAB Form 217, to be submitted quarterly. The notice was related to a previously issued notice

[1] Section 214.5 entitled "Reporting" requires an annual report from each foreign air carrier authorized to engage in charter tansportation only which shall set forth the following information pertaining to each charter flight performed during the year pursuant to that part: (a) Date of trip; (b) points served; (c) number of round-trip and one-way passengers.

[2] This action does not relieve carriers with respect to the annual report for 1967.

(EDR–116)[1] which would require similar reporting of civilian charter travel information by all the certificated route and supplemental air carriers in a new Schedule T–6 of the CAB Form 41 report, to be submitted quarterly.

Interested persons were invited to submit written data, views, or arguments on the proposed rule. Pursuant thereto, four comments were filed; one by a supplemental air carrier[2] and three by foreign air carriers.[3] Two comments support the rule[4] and two oppose it, either in whole or in part. All relevant matter submitted has been considered.

The Board has decided to adopt the rule as proposed. Except as modified herein, the tentative findings set forth in the explanatory statement attached to the notice (EDR–122, supra) are incorporated herein by reference and made final.

Swissair contends that enactment of Part 217 is beyond the Board's powers. It states that the Board cannot impose the reporting requirement under section 204(a) of the Act—the general rule-making provision—since this section gives the Board no additional power other than has been granted to it by other provisions of the Act. It further asserts that, insofar as section 402 of the Act is concerned, the Board is not purporting to assert the rule thereunder as a term, condition and limitation of a foreign air carrier permit and, even if it were attempting to do so, it would be necessary to afford notice and hearing as required by section 402(f) of the Act and to secure Presidential approval as required by section 801 thereof, conditions which obviously are not being complied with in this rule-making proceeding. Moreover, Swissair argues that since Congress expressly empowered the Board in section 407 to impose reporting requirements upon air carriers, but said nothing in the case of reports from foreign air carriers, it inferentially withheld from the Board the power to require reports from the latter class of carriers.

We are not persuaded by these arguments that the Board cannot proceed to finalize EDR–122. In our opinion, the imposition of the proposed reporting requirement is a valid exercise of the Board's rule-making powers. We need not pass upon the question as to whether the Board, under its general rule-making powers of section 204(a),[5] would have the power to impose a broad scale system of accounts and reports upon foreign air carriers. For the present purposes, we may assume that the Board does not have such power.[5a] The fact that foreign air carriers are not included within the broad scope of the Board's accounting, reporting and visitation powers in section 407 does not preclude us from obtaining minimal information as to the extent of operations under the permits granted. Each foreign air carrier's permit specifically provides that the exercise of the privileges granted thereby shall be subject "to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board." In our judgment, our general powers under section 204(a), in conjunction with the reserved powers under the permit, provide us with ample substantive authority to require these reports of foreign air carriers.

Nor do we believe that we must proceed by a permit amendment proceeding under section 402 in order to establish these requirements.[6] The proposed rule affects an entire class of carrier, and the subject matter is of the type which is typically dealt with in rule-making proceedings. The rule does not affect the basic operating authority of the carrier, but merely seeks to prescribe relatively minor conditions to the exercise of the operating authority. It is significant that, while the rule will affect some 80 foreign air carriers, no carrier has contended that the rule is unwise or unduly burdensome or inappropriate for any other reason, except in one minor respect subsequently discussed.[7] Although Swissair suggests that the Board must proceed through notice and hearing under section 402, it does not indicate the nature of the factual issues which require a hearing for their resolution.[8]

It is clear that adoption of Part 217 does not involve consideration of the sort of facts which would be susceptible to development at an evidentiary hearing. Rather, our determination rests primarily upon policy considerations, i.e., our regulatory needs weighed against the carrier burden of submitting the information. We need not, of course, develop an evidentiary record in order to convince ourselves of our regulatory needs, and from the routine nature of the report, combined with the lack of any contention that the reports would be unduly costly, it is apparent that a hearing would serve no useful purpose. Nor can we find any basis for reading into section 801 a requirement that the President of the United States be burdened with the necessity of passing upon Board actions of the sort embodied in Part 217.

Air Canada opposes the rule in part. EDR–122 would exempt from the reporting requirement foreign air carriers holding permits authorizing casual, occasional and infrequent flights with small aircraft in transborder operations, and Air Canada would have the Board extend such exemption to cover United States-Canada transborder charter operations of all Canadian carriers holding permits issued by the Board. In support of this request, Air Canada asserts that United States-Canada transborder charter operations by United States and Canadian carriers pose no regulatory problems for the Board; that, in terms of total charter operations to and from the United States, the volume of United States-Canada charter operations is nominal; that the Board's decision in EDR–122 and EDR–116, supra, to exempt from the reporting requirements the transborder charter flights of both nonscheduled Canadian carriers (i.e., those whose permits are restricted to the use of small aircraft) and U.S. air taxi operators will substantially reduce the volume of information on transborder charters which the Board would otherwise receive; and that the flight and traffic data which the Board would receive under EDR–116 and EDR–122 would have very limited value and would do little to alleviate the information deficiency concerning civil charters to and from the United States, cited by the Board as a reason for the proposed rule.

We are not persuaded to modify the exemption in the proposed rule with respect to transborder United States-Canada charter operations. The volume of charter movement between the United States and Canada is not known to the Board, and this is the type of deficiency which the rule is intended to correct. While flight and traffic data from carriers authorized only to conduct occasional transborder flights with small aircraft could contribute little to satisfying this deficiency, the same cannot be said with respect to transborder charter operations of other Canadian carriers. Moreover, the absence of charter activity in particular markets which the data filed under the rule may disclose could be of significance to the Board in both

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[1] Comments have been filed with respect to EDR–116 proposing amendments to Part 241, and the final rule is being issued simultaneously herewith (ER–518).

[2] American Flyers Airline Corp.

[3] Air Canada; Caledonian Airways (Prestwick) Ltd.; and Swissair, Swiss Air Transport Co., Ltd.

[4] Although Caledonian supports the rule, it requests that the reporting requirement of § 214.5, applicable to foreign air carriers authorized to engage in charter transportation only, be eliminated as duplicative of the requirements of EDR–122. This request has merit and, accordingly, we are deleting the reporting requirement from Part 214 by ER–520, issued simultaneously herewith.

[5] Section 204(a) provides: "The Board is empowered to perform such acts, to conduct such investigations, to issue and amend such orders, and to make and amend such general or special rules, regulations, and procedure, pursuant to and consistent with the provisions of this Act, as it shall deem necessary to carry out the provisions of, and to exercise and perform its powers and duties under this Act."

[5a] But cf. Public Service Commission of State of New York v. Federal Power Commission, 327 F. 2d 893 (1964).

[6] See ER–427, Feb. 25, 1965, and cf. American Airlines, Inc. v. Civil Aeronautics Board, 359 F. 2d 624 (C.A.D.C. 1966), cert. den. 385 U.S. 843 (1966).

[7] Caledonian Airways, while asserting that the proposal would impose a considerable administrative burden on small carriers, supported the adoption of the part on the ground, inter alia, that the Board's regulatory functions would be assisted by the access to the market data obtained thereby.

[8] Indeed, it affirmatively appears from Swissair's comments that there is no factual basis for its opposition, since it states that the information requested is substantially the same as that which it has voluntarily submitted to the Board, and which it is willing to continue to submit on a voluntary basis.

its rule-making and licensing functions. If the exemption were expanded as requested by Air Canada, there would always be doubt as to the extent of charters of large aircraft in United States-Canada transborder operations. Finally, Air Canada does not contend, nor is there any reason to believe, that the proposed reporting would unduly burden the carrier.

Accordingly, in consideration of the foregoing, the Board hereby adopts a new Part 217 of its Economic Regulations (14 CFR Part 217), effective January 1, 1968, to read as follows:

Sec.
217.1 Definitions.
217.2 Applicability.
217.3 Report of civil aircraft charters performed by foreign air carriers.
217.4 Extension of filing time.
217.5 Certification.
217.6 Reporting instructions.

AUTHORITY: The provisions of this Part 217 are issued under sections 204(a) and 402 of the Federal Aviation Act of 1958, 72 Stat. 743, 757; 49 U.S.C. 1324, 1372.

§ 217.1 Definitions.

As used in this part:

"Foreign air carrier" means a carrier which holds a permit under section 402 of the Act.

"Small aircraft" means aircraft with a gross takeoff weight of 12,500 pounds or less.

§ 217.2 Applicability.

This part applies to foreign air carriers which are authorized to perform civil aircraft charters to or from the United States: *Provided, however,* That foreign air carriers holding permits authorizing casual, occasional, and infrequent flights with small aircraft across the border between the United States and a contiguous nation shall not be subject to the requirements of this part.

§ 217.3 Report of civil aircraft charters performed by foreign air carriers.

(a) Each foreign air carrier shall file CAB Form 217 entitled "Report of Civil Aircraft Charters Performed by Foreign Air Carriers" in accordance with the provisions of this part and in the manner set forth in said form which is made a part hereof and annexed hereto.[*]

(b) CAB Form 217 shall be prepared for the quarters ending March 31, June 30, September 30, and December 31 of each calendar year. CAB Form 217 shall be completed in triplicate and filed with the Board (i.e., postmarked) not more than forty (40) days after the end of each calendar quarter, and shall be addressed to the Civil Aeronautics Board, Attention of the Bureau of Accounts and Statistics, Washington, D.C. 20428.

§ 217.4 Extension of filing time.

If circumstances prevent the filing of a report within the prescribed time limit, consideration will be given to the granting of an extension upon receipt of a written request therefor. Such a request must give a sufficient reason for granting the extension, set forth the date when the report can be filed, and be submitted sufficiently in advance of the due date to permit proper time for consideration and communication to the foreign air carrier of the action taken. Except in cases of emergency, no request for extension will be entertained which is not received in sufficient time to enable the Board to pass thereon before the prescribed due date. If a request is denied, the foreign air carrier remains subject to the filing requirements to the same extent as if no request for extension had been made.

§ 217.5 Certification.

The certificate contained in CAB Form 217 shall be executed by the officer in charge of the carrier's accounts and shall apply to all reports of civil aircraft charters and supporting documents, if any, filed therewith.

§ 217.6 Reporting instructions.

(a) A complete report shall be made on this form for the overall or system operations conducted by a foreign air carrier to or from the United States.

(b) Separate reports shall be filed for each of the below-named types of charters and the type shall be inserted opposite the caption "Type of Charter."

(1) Single entity charter, as defined in Part 214 of this chapter (Board's Economic Regulations).

(2) Pro rata charter, as defined in Part 214 of this chapter (Board's Economic Regulations). Mixed charters, as defined in Part 214 of this chapter, are to be reported as pro rata charters.

(3) All-cargo charter.

(4) Inclusive tour charter, as defined in Part 378 of this chapter (Board's Special Regulations).

(5) Split charter, as defined in § 214.2 (b) (2) of this chapter (Board's Economic Regulations) by carriers subject to Part 214 of this chapter. For reporting purposes, a split charter is to be listed as one flight, and listed only on the split charter report even though a portion of the split charter may be pro rata and the other portion single entity.

(c) The data for each flight shall be reported in the quarter in which its performance actually begins. If a charter contract calls for more than one flight, each of the flights shall be reported in the quarter in which it actually begins. Round trips shall be reported as a single service without breakdown by directional components.

(d) All points included in the report shall be identified by the three-letter airport code used in the Official Airline Guide.

(e) Columns 1 and 2 shall reflect the origin and destination, respectively, of the charter flight. For round-trip charters, the origin point shall be shown also as the destination point.

(f) Column 3 shall reflect the number of flights which begin in the current quarter.

(g) Columns 4 and 5 shall reflect, respectively, the aggregate number of seats and the aggregate cargo capacity in tons contracted for on flights reported in column 3.

(h) Columns 6 through 12 shall reflect the intermediate points (where a portion of the charter traffic is either enplaned or deplaned) in operating sequence between origin and destination. On round-trip flights, all stopover points other than the common origin and destination shall be shown as intermediate points. Indicate instances where there is a break in air transportation, such as surface travel, by placing an asterisk between the pairs of points where such a break occurs.

NOTE: The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 67-14650; Filed, Dec. 15, 1967; 8:49 a.m.]

[Reg. No. ER-523]

PART 221—CONSTRUCTION, PUBLICATION, FILING, AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Notice of Limitation of Liability Under Warsaw Convention

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of December 1967.

The Board has published in 32 F.R. 12190, and circulated to the industry in EDR-124, dated August 21, 1967, Docket 18930, a notice of proposed rule making with respect to Part 221 (14 CFR Part 221) which proposed to delete from the notice of limitations of liability under the Warsaw Convention prescribed by the Board (§ 221.175(a)) the reference to limitations of liability for loss of or damage to baggage. The Board invited interested persons to submit pertinent information and data with respect to the proposed rule.

Pursuant to EDR-124, supra, two comments were received, one from Eastern Air Lines, Inc., and the other from a private person, and due consideration has been given to all relevant matter presented. The Board has decided to adopt the rule as proposed. We are therefore incorporating herein by reference the tentative findings set forth in the explanatory statement to the proposed rule (EDR-124, supra), which we are finalizing herein.[1]

Our action, however, should not be regarded as relieving the carriers of their obligation to the public to provide effective notice of the baggage liability limitation. In this connection, we call attention to the Board's decision in the Baggage Liability Rules Case, Order E-24198, September 19, 1966. There the Board noted that carriers were using a variety

[*] Filed as part of the original document.

[1] Pursuant to Eastern's request, we are issuing simultaneously herewith Board Order E-26119 which amends a conditional approval of an IATA resolution in order to make the Board's approval thereof conform to the final rule promulgated herein.

of methods of giving notice of limits of liability and availability of opportunity to declare excess valuation,[2] and did not find that the carriers' practices of giving notice of liability rules were unreasonable. In that decision the Board adopted the carriers' suggestion that methods of giving notice of liability rules as to baggage be left to their discretion principally to provide them with flexibility of operations. In that case, however, the Board admonished the carriers that it expected them to continue their efforts to improve practices with respect to giving advance notice to as many passengers as practicably possible, and stated that if it should become necessary in the public interest to order the adoption of specific practices in the future, it would institute appropriate rule making or other proceedings to do so.

In finalizing this rule, we are reminding all carriers, both foreign and domestic, of their obligation to provide notice as to liability limitations for baggage which is adequate depending on the particular conditions of the transportation. And the Board reserves the right to take action to specify the notice of baggage liability limitations which should be required, should the carriers not fulfill their obligations to take care of this matter.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 221 of the Economic Regulations (14 CFR Part 221), effective January 15, 1968, by modifying § 221.175(a) to read as follows:

§ 221.175 Special notice of limited liability for death or injury under the Warsaw Convention.

(a) In addition to the aforesaid requirements of this subpart, each air carrier and foreign air carrier which, to any extent, avails itself of the limitation on liability to passengers provided by the Warsaw Convention, shall, at the time of delivery of the ticket, furnish to each passenger whose transportation is governed by the Convention and whose place of departure or place of destination is in the United States, the following statement in writing:

ADVICE TO INTERNATIONAL PASSENGERS ON LIMITATION OF LIABILITY

Passengers embarking upon a journey involving an ultimate destination or a stop in a country other than the country of departure are advised that the provisions of a treaty known as the Warsaw Convention may be applicable to their entire journey including the portion entirely within the countries of departure and destination. The Convention governs and in most cases limits the liability of carriers to passengers for death or personal injury to approximately $8,290.

Additional protection can usually be obtained by purchasing insurance from a private company. Such insurance is not affected by any limitation of the carrier's liability under the Warsaw Convention. For further information please consult your airline or insurance company representative.

Provided, however, That when the carrier elects to agree to a higher limit of liability to passengers than that provided in Article 22(1) of the Warsaw Convention, such statement shall be modified to reflect the higher limit. The statement prescribed herein shall be printed in type at least as large as 10-point modern type and in ink contrasting with the stock on (1) each ticket; (2) a piece of paper either placed in the ticket envelope with the ticket or attached to the ticket; or (3) the ticket envelope.

(Sec. 204(a), 72 Stat. 743; 49 U.S.C. 1324. Interpret or apply secs. 401(e), 402(e), 403, 411, 72 Stat. 754, 757, 758, 769; 49 U.S.C. 1371, 1372, 1373, 1381)

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 67-14651; Filed, Dec. 15, 1967; 8:49 a.m.]

[Reg. No. ER-518]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Reporting of Charter Travel

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22d day of November 1967.

In EDR-116, dated May 11, 1967, 32 F.R. 7343, the Board issued a notice of proposed rule making that it had under consideration an amendment to Part 241 which would require the reporting of civilian charter information by all certificated carriers in a new schedule T-6 of the CAB Form 41 report, to be submitted quarterly.

Interested persons were invited to submit written data, views, or arguments on the proposal and seven carriers have filed comments.[1] All relevant matter submitted has been considered.

The Board has decided to adopt the rule with the modifications set forth below.[2] Except as modified herein, the tentative findings set forth in the explanatory statement attached to the proposed rule (EDR-116, supra) are incorporated herein by reference and made final.

Northwest and Universal oppose the proposal as being burdensome and unwarranted because the Board already receives adequate information on charter operations. However, the data reported will reveal to the Board the number of charters conducted in each market, broken down by type of charter, and no such information disclosing the impact of charter transportation is presently available. Furthermore, the carriers should have a minimum of difficulty supplying the data requested because the charter contract itself contains all of the necessary information.

Pan American, in its comment in support of the proposed rule, suggests that the Board require the reporting of actual traffic data, instead of the capacities sold to charterers, and of enplanements and deplanements at intermediate points. The Board believes that the gathering of such information would increase the burden on the carriers without materially improving the present value of the report, although such information might become more valuable at some time in the future. Therefore, Pan American's recommendations in this respect will not be adopted.[3] In addition, since the report as originally proposed in EDR-116 will disclose whether a charter is one-way or round-trip, these two categories need not be reported separately as recommended by Pan American.

Pan American and Northwest believe, respectively, that the reports should be disclosed only to reporting carriers and that the information could be used to unfair advantage by competitors. However, neither carrier has disclosed sufficient grounds, nor is the Board aware of any grounds, which would justify a conclusion that disclosure would adversely affect any person and is not required by the public interest, as required by section 1104 of the Act.

We will also reject Universal's requested exclusion from the report of its operations with the automotive companies due to the confidential relationship concerning the cargo carried, rates and destination. It may be noted that the report does not call for information concerning rates. Moreover, the fact that the reported material might be confidential would, at most, justify its withholding from public disclosure under section 1104. And, as in the case of Pan American and Northwest, we find no basis for such action here.

The three Alaskan carriers commenting have requested that Alaskan air carriers be exempted from reporting their intra-Alaskan charters. We agree with the Alaskan carriers that charters by these carriers within Alaska are unique, because lack of other practical means of transportation within Alaska has resulted in large numbers (literally thousands) of short-haul charters, many flown in bush aircraft, and we agree that point-to-point data on such charters would be of little value in assessing the impact of charter travel. Therefore, Alaskan air carriers will not be required to file the new schedule T-6 as to their intra-Alaskan charters.

In the original notice the effective date of the amendment was to have been

[2] Such as the conditions of the contract in small print on the back of the passenger ticket, language on baggage tags, claim checks, ticket envelopes, or timetables, or signs posted at ticket counters or in baggage wells.

[1] Northwest Airlines, Inc., Pan American World Airways, Inc., United Air Lines, Inc., Universal Airlines, Inc., Alaska Coastal Airlines, Inc., Northern Consolidated Airlines, Inc., and Wien Alaska Airlines, Inc. The latter three carriers, all Alaskan air carriers, filed a joint comment.

[2] Issued simultaneously herewith is a new Part 217 requiring the reporting of data pertaining to civil aircraft charters performed by foreign air carriers (ER-519).

[3] United recommended the reporting of actual operations as opposed to operations contracted for. The original proposal has been modified in order to make crystal clear that the Board desires information as to flights actually performed, and not as to unperformed contracts.

January 1, 1967. In the light of comments filed, we have determined to eliminate the retroactivity of the requirement and will make the regulation effective January 1, 1968.

In consideration of the foregoing, the Board hereby amends Part 241 of the Economic Regulations (14 CFR Part 241), effective January 1, 1968, as follows:

1. By amending Section 22, by inserting schedule T-6 in the list of schedules in paragraph (a) to read as follows:

Section 22—General Reporting Instructions

(a) * * *

Schedule No.		Filing	
		Frequency	Postmark interval (days)
* * *	* * *	* * *	* * *
T-5	Monthly listing of summarized passenger loads by flight stages—local service air carriers.	Monthly	(2)
T-6	Summary of civil aircraft charters.	Quarterly	40
T-41	Charter and special service revenue aircraft miles flown.	Annually	90
* * *	* * *	* * *	* * *

2. By amending section 25—"Traffic and Capacity Elements" by inserting after the text of schedule T-5 the following:

Schedule T-6—Summary of Civil Aircraft Charters

(a) This schedule shall be filed by each route air carrier, except that intra-Alaskan charters performed by Alaskan air carriers shall not be reported.

(b) A complete report shall be made on this schedule for the overall or system operations conducted by the air carrier.

(c) Separate reports shall be filed for each of the below-named types of charters and the type shall be inserted opposite the caption "Type of Charter."

(1) Single entity charter, as defined in Part 208 of the Board's Economic Regulations. Mixed charters, as defined in Part 207, are to be reported as single entity charters.

(2) Pro rata charter, as defined in Part 208 of the Board's Economic Regulations. Mixed charters, as defined in Part 208, are to be reported as pro rata charters.

(3) All-cargo charter.

(d) The data for each flight shall be reported in the quarter in which its performance actually begins. If a charter contract calls for more than one flight, each of the flights shall be reported in the quarter in which it actually begins. Round trips shall be reported as a single service without breakdown by directional components.

(e) All points included in the report shall be identified by the three-letter airport code used in the Official Airline Guide.

(f) Military charter flights shall not be reported.

(g) Columns 1 and 2 shall reflect the origin and destination, respectively, of the charter flight. For round-trip charters, the origin point shall be shown also as the destination point.

(h) Column 3 shall reflect the number of flights which begin in the current quarter.

(i) Columns 4 and 5 shall reflect, respectively, the aggregate number of seats and the aggregate cargo capacity in tons contracted for on flights reported in column 3.

(j) Columns 6 through 12 shall reflect the intermediate points (where a portion of the charter traffic is either enplaned or deplaned) in operating sequence between origin and destination. On round-trip flights, all stopover points other than the common origin and destination shall be shown as intermediate points. Indicate instances where there is a break in air transportation, such as surface travel, by placing an asterisk between the pairs of points where such a break occurs.

3. By amending section 32, by inserting schedule T-6[1] in the list of schedules in paragraph (a) to read as follows:

Section 32—General Reporting Instructions

(a) * * *

Schedule No.		Filing	
		Frequency	Postmark interval (days)
* * *	* * *	* * *	* * *
T-3.1	Statement of traffic and capacity statistics.	do	30
T-6	Summary of civil aircraft charters.	Quarterly	40
G-41	Persons holding more than 5 per centum of respondent's capital stock or capital.	Annually	90
* * *	* * *	* * *	* * *

4. By amending section 35—"Traffic and Capacity Elements" by inserting after the text of schedule T-3.1 the following:

Schedule T-6—Summary of Civil Aircraft Charters

(a) This schedule shall be filed by each supplemental air carrier.

(b) Separate reports shall be filed for each of the below-named types of charters and the type shall be inserted opposite the caption "Type of Charter."

(1) Inclusive tour charter, as defined in Part 378 of the Board's Special Regulations.

(2) Single entity charter, as defined in Part 208 of the Board's Economic Regulations. Mixed charters, as defined in Part 207, are to be reported as single entity charters.

(3) Split charter, as defined in § 208.3 (s) (2) (ii) or § 295.2(b) (2) of the Board's Economic Regulations, as applicable. For reporting purposes, a split charter is to be listed as one flight, and listed only on the split charter report even though a portion of the split charter may be pro rata and the other portion single entity.

(4) Pro rata charter, as defined in Part 208 of the Board's Economic Regulations. Mixed charters, as defined in Part 208, are to be reported as pro rata charters.

(5) All-cargo charter.

(c) The data for each flight shall be reported in the quarter in which its performance actually begins. If a charter contract calls for more than one flight, each of the flights shall be reported in the quarter in which it actually begins. Round trips shall be reported as a single service without breakdown by directional components.

(d) All points included in the report shall be identified by the three-letter airport code used in the Official Airline Guide.

(e) Military charter flights shall not be reported.

(f) Columns 1 and 2 shall reflect the origin and destination, respectively, of the charter flight. For round-trip charters, the origin point shall be shown also as the destination point.

(g) Column 3 shall reflect the number of flights which begin in the current quarter.

(h) Columns 4 and 5 shall reflect, respectively, the aggregate number of seats and the aggregate cargo capacity in tons contracted for on flights reported in column 3.

(i) Columns 6 through 12 shall reflect the intermediate points (where a portion of the charter traffic is either enplaned or deplaned) in operating sequence between origin and destination. On round-trip flights, all stopover points other than the common origin and destination shall be shown as intermediate points. Indicate instances where there is a break in air transportation, such as surface travel, by placing an asterisk between the pairs of points where such a break occurs.

(Secs. 204(a), 407(a), Federal Aviation Act of 1958, as amended; 72 Stat. 743, 766; 49 U.S.C. 1324, 1377)

NOTE: The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 67-14649; Filed, Dec. 15, 1967; 8:49 a.m.]

[1] Schedule filed as part of the original document.

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket C-1273]

PART 13—PROHIBITED TRADE PRACTICES

Kanebo U.S.A., Inc., and Shichiro Miyazaki

Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Kanebo U.S.A., Inc., et al., New York, N.Y., Docket C-1273, Nov. 27, 1967]

In the Matter of Kanebo U.S.A., Inc., a corporation, and Shichiro Miyazaki, individually and as an officer of said corporation.

Consent order requiring a New York City importer of fabrics to cease importing or selling any fabric so highly flammable as to be dangerous when worn.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Kanebo U.S.A., Inc., a corporation, and its officers, and Shichiro, Miyazaki, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from:

(a) Importing into the United States; or

(b) Selling, offering for sale, introducing, delivering for introduction, transporting, or causing to be transported, in commerce, as "commerce" is defined in the Flammable Fabrics Act; or

(c) Transporting or causing to be transported, for the purpose of sale or delivery after sale in commerce;

any fabric which, under the provisions of section 4 of said Flammable Fabrics Act, as amended, is so highly flammable as to be dangerous when worn by individuals.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: November 27, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-14611; Filed, Dec. 15, 1967; 8:45 a.m.]

[Docket C-1274]

PART 13—PROHIBITED TRADE PRACTICES

Atomic Sportswear Co., Inc., et al.

Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* § 13.1185–90 Wool Products Labeling Act: § 13.1212 *Formal regulatory and statutory requirements:* § 13.1212–90 Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* § 13.1852–80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; secs. 2–5, 54 Stat. 1128–1130; 15 U.S.C. 45, 68) [Cease and desist order, Atomic Sportswear Co., Inc., et al., New York, N.Y., Docket C-1274, Nov. 27, 1967]

In the Matter of Atomic Sportswear Co., Inc., a Corporation, and Leo Stahl, William Stahl, and Elliott Schneiderman, Individually and as Officers of Said Corporation

Consent order requiring a New York City clothing manufacturer to cease misbranding its wool products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Atomic Sportswear Co., Inc., a corporation, and its officers, and Leo Stahl, William Stahl, and Elliott Schneiderman, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the manufacture for introduction into commerce, the introduction into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment, or shipment, in commerce, of wool products as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding wool products by:

1. Falsely and deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of the constituent fibers contained therein.

2. Failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: November 27, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-14610; Filed, Dec. 15, 1967; 8:45 a.m.]

[Docket C-1275]

PART 13—PROHIBITED TRADE PRACTICES

Modern Juniors, Inc., and William Paul

Subpart—Furnishing false guaranties: § 13.1053 *Furnishing false guaranties:* § 13.1053–90 Wool Products Labeling Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* § 13.1185–80 Textile Fiber Products Identification Act; § 13.1185–90 Wool Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* § 13.1212–80 Texile Fiber Products Identification Act; § 13.1212–90 Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* § 13.1852–70 Textile Fiber Products Identification Act; § 13.1852–80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; secs. 2–5, 54 Stat. 1128–1130, 72 Stat. 1717; 15 U.S.C. 45, 68, 70) [Cease and desist order, Modern Juniors, Inc., et al., New York, N.Y., Docket C-1275, Nov. 28, 1967]

In the Matter of Modern Juniors, Inc., a Corporation, and William Paul, Individually and as an Officer of Said Corporation

Consent order requiring a New York City women's wear manufacturer to cease misbranding its wool and textile fiber products and furnishing its customers false guaranties.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Modern Juniors, Inc., a corporation, and its officers, and William Paul, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the manufacture for introduction into commerce, the introduction into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment or shipment in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely or deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of constituent fibers included therein.

2. Failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That respondents Modern Juniors, Inc., a corporation, and its officers, and William Paul, individually and as an officer of said corporation, and

respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing a false guaranty that any wool product is not misbranded under the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, when there is reason to believe that such wool product so guaranteed may be introduced, sold, transported or distributed in commerce.

It is further ordered, That respondents Modern Juniors, Inc., a corporation, and its officers, and William Paul, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce," and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from misbranding textile fiber products by:

1. Failing to affix labels to such products showing each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.

2. Failing to set forth all parts of the required information conspicuously and separately on the same side of the label in such a manner as to be clearly legible and readily accessible to the prospective purchaser.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: November 28, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 67-14612; Filed, Dec. 15, 1967; 8:45 a.m.]

Title 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration, Department of Health, Education, and Welfare

[Regs. Nos. 4, 5]

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950-____)

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED (1965-____)

Miscellaneous Amendments

Parts 404 and 405 are amended as follows:

1. Section 404.506 is revised to read as follows:

§ 404.506 When waiver of adjustment or recovery may be applied.

Sections 204(b) and 1870(c) of the Act provide that there shall be no adjustment or recovery in any case where an incorrect payment under title II (old-age, dependent's, survivor's and disability insurance benefits) or under title XVIII (hospital and supplementary medical insurance benefits) has been made (including a payment under section 1814(e) of the Act) with respect to an individual:

(a) Who is without fault, and

(b) Adjustment or recovery would either:

(1) Defeat the purpose of title II of the Act, or

(2) Be against equity and good conscience.

2. Section 404.507 is amended to read as follows:

§ 404.507 Fault.

"Fault" as used in "without fault," (see §§ 404.506 and 405.355) applies only to the individual. Although the Administration may have been at fault in making the payment, that fact does not relieve the individual if he is not without fault. In determining whether an individual is at fault, the Administration will consider all pertinent circumstances, including his age, intelligence, education, and physical and mental condition. What constitutes fault (except for "deduction overpayments"—see § 404.510) depends upon whether the facts show the incorrect payment to the individual or to a provider of services or other person, or an incorrect payment made under section 1814(e) of the Act, resulted from:

(a) An incorrect statement made by the individual which he knew or should have known to be incorrect;

(b) Failure to furnish information which he knew or should have known to be material; or

(c) Acceptance of a payment which he either knew or could have been expected to know was incorrect.

3. Section 404.508 is revised to read as follows:

§ 404.508 Defeat the purpose of title II.

(a) *General.* "Defeat the purpose of title II," for purposes of this subpart, means defeat the purpose of benefits under this title, i.e., to deprive a person of income required for ordinary and necessary living expenses. This depends upon whether the person has an income or financial resources sufficient for more than ordinary and necessary needs, or is dependent upon all of his current benefits for such needs. An individual's ordinary and necessary expenses include:

(1) Fixed living expenses, such as food and clothing, rent, mortgage payments, utilities, maintenance, insurance (e.g., life, accident, and health insurance including premiums for supplementary medical insurance benefits under title XVIII), taxes, installment payments, etc.;

(2) Medical, hospitalization, and other similar expenses;

(3) Expenses for the support of others for whom the individual is legally responsible; and

(4) Other miscellaneous expenses which may reasonably be considered as part of the individual's standard of living.

(b) *When adjustment or recovery will defeat the purpose of title II.* Adjustment or recovery generally will defeat the purposes of title II in (but is not limited to) situations where the overpaid person needs substantially all of his current income (including social security monthly benefits) to meet his current ordinary and necessary living expenses.

4. In § 404.509 the opening paragraph is amended and a new example 5 is added to read as follows:

§ 404.509 Against equity and good conscience; defined.

"Against equity and good conscience" means that adjustment or recovery of an incorrect payment (under title II or title XVIII) will be considered inequitable if an individual, because of a notice that such payment would be made or by reason of the incorrect payment, relinquished a valuable right (examples (1), (2), and (5)) or changed his position for the worse (examples (3), and (4)). In reaching such a determination, the individual's financial circumstances are irrelevant.

* * * * *

Example 5. In June 1966, H filed for hospital insurance benefits and submitted evidence, which he believed was correct, showing he was 65 years old. He was subsequently notified that he was entitled to hospital insurance coverage effective July 1, 1966. At the same time, H was notified that he was entitled to monthly social security benefits, but because he was working regularly and earning in excess of $4,000 a year, no payments would be made until his work status changed. On the basis of the notice of entitlement to hospital insurance coverage, H allowed his private insurance policy, which provided for full reimbursement of hospital expenses up to a maximum of $1,000 in each calendar year, to lapse as of July 1, 1966. In August 1966, H was an inpatient at a hospital for 20 days and incurred $500 of hospital expenses. For the services received by H, the hospital was paid $460 ($500 minus the $40

deductible) under the hospital insurance program. Later that year, H became aware of and submitted other evidence showing beyond doubt that he was 63 years old in August 1966. Based on this new evidence, the Administration determined that H was not entitled under the hospital insurance program and the hospital had been incorrectly paid $460 (no monthly benefits had been paid). With respect to H's liability for the incorrect payment of $460, unless waiver applied, this amount would be adjusted against future payment (if any) of monthly social security or railroad retirement benefits or would be recovered from H. Under the facts presented, however, adjustment or recovery of the incorrect payment from H is considered against equity and good conscience because in reliance on the award notice advising him of his entitlement to hospital insurance coverage, H relinquished a valuable right when he allowed his private health insurance to lapse.

5. Section 405.354 is added to read as follows:

§ 405.354 Procedures for adjustment or recovery—title II beneficiary.

The procedures applied in making an adjustment or recovery in the case of a title II beneficiary are the applicable procedures of § 404.502 of this chapter.

6. Section 405.355 is amended to read as follows:

§ 405.355 Waiver of adjustment or recovery.

The provisions of § 405.352 may not be applied and there may be no adjustment or recovery of an overpayment (§ 405.350(a)) or payment (§ 405.350(b)) in any case where the overpayment has been made with respect to an individual who is without fault, and where such adjustment or recovery would defeat the purpose of title II of the Act or would be against equity and good conscience.

7. Section 405.356 is added to read as follows:

§ 405.356 Principles applied in waiver of adjustment or recovery.

The principles applied in determining waiver of adjustment or recovery (§ 405.355) are the applicable principles of §§ 404.506–404.509 of this chapter.

(Secs. 204, 205, 1102, 1870, 1871; 53 Stat. 1368, as amended 49 Stat. 647 as amended, 79 Stat. 331; 42 U.S.C. 404, 405, 1302, 1395gg, 1395hh)

8. *Effective date.* The foregoing amendments shall become effective on the date of publication in the FEDERAL REGISTER.

Dated: November 27, 1967.

[SEAL] ROBERT M. BALL,
Commissioner of Social Security.

Approved: December 9, 1967.

WILBUR J. COHEN,
Acting Secretary of Health, Education, and Welfare.

[F.R. Doc. 67-14630; Filed, Dec. 15, 1967; 8:47 a.m.]

[Regs. No. 5]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED (1965_____)

Subpart D—Principles for Reimbursable Costs

OPTIONAL ALLOWANCE FOR DEPRECIATION BASED ON PERCENTAGE OF OPERATING COSTS

Subpart D of Part 405 of Chapter III of Title 20 of the Code of Federal Regulations is amended as set forth below.

Paragraph (a) of § 405.416 is revised to make an editorial change needed to clarify the principles dealing with the optional allowance for depreciation based on a percentage of operating costs. Paragraph (a) of § 405.416 is revised to read as follows:

§ 405.416 Depreciation: optional allowance for depreciation based on a percentage of operating costs.

(a) *Principle.* With respect to all assets acquired before 1966, the provider, at its option, may choose an allowance for depreciation based on a percentage of operating costs. The operating costs to be used are the provider's 1965 operating costs or the provider's current year's allowable costs, whichever are the lower. The percent to be applied is 5 percent starting with the year 1966–67, with such percentage being uniformly reduced by one-half percent each succeeding year. The allowance based on operating costs is in addition to regular depreciation on assets acquired after 1965; however, when the optional allowance is selected, the combined amount of such allowance on pre-1966 assets and the straight-line depreciation on assets acquired after 1965 (including the estimated depreciation on assets held on a rental basis during the current year) may not exceed 6 percent of the provider's allowable cost for the current year.

* * * * *

(Secs. 1102, 1814(b), 1861(v), and 1871, 49 Stat. 647, as amended, 79 Stat. 296, 79 Stat. 322, 79 Stat. 331; 42 U.S.C. 1302, 1395 et seq.)

2. *Effective date.* The foregoing amendment shall become effective on the date of publication in the FEDERAL REGISTER.

Dated: November 27, 1967.

[SEAL] ROBERT M. BALL,
Commissioner of Social Security.

Approved: December 9, 1967.

WILBUR J. COHEN,
Acting Secretary of Health, Education, and Welfare.

[F.R. Doc. 67-14632; Filed, Dec. 15, 1967; 8:47 a.m.]

[Regs. No. 5]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED (1965_____)

Subpart H—Review and Hearing Under the Supplementary Medical Insurance Program

On June 22, 1967, there was published in the FEDERAL REGISTER (32 F.R. 8916) a notice of proposed rule making relating to the principles and guidelines for the review and hearing procedures to be instituted by carriers in providing an enrollee, or a physician or other person accepting an assignment of payment, an opportunity for an informal review and a hearing when dissatisfied with a carrier's action in processing a request for payment under Part B of title XVIII of the Social Security Act. Interested parties were given the opportunity to submit written comments within 30 days after publication.

Written comments were received and considered; certain changes were made in the proposed regulations. The general provisions of § 405.801 were amended by deleting those provisions which discussed the Administration's actions in the review of carrier hearing decisions since they merely relate to internal arrangements between the Administration and carriers, and were not intended to establish either a line of communication between Part B enrollees and the Administration or a further level of administrative appeal beyond the appeal to the carrier. Section 405.801 was further amended, by introducing a new paragraph (b), to provide a time period for determining whether carrier action on a request for payment is being taken with reasonable promptness. Section 405.802 was amended to provide a clarification of the terms "party," "enrollee," and "representative" as used in the regulations. A technical change was made in § 405.824 to provide that the fact that a hearing officer is an employee of the carrier may not serve as prima facie cause for his disqualification. Section 405.841 was amended to provide a time limitation for the reopening of an initial or informal review determination of the carrier, and decision of a hearing officer.

Other changes of a clarifying and editorial nature have also been made.

Chaper III, Title 20 is amended by adding thereto Subpart H of Part 405, to read as set forth below. The addition of Subpart H of Part 405, Title 20, shall be effective upon publication in the FEDERAL REGISTER.

Dated: November 27, 1967.

[SEAL] ROBERT M. BALL,
Commissioner of Social Security.

Approved: December 9, 1967.

WILBUR J. COHEN,
Acting Secretary of Health, Education, and Welfare.

Subpart H—Review and Hearing Under the Supplementary Medical Insurance Program

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405.801 Title XVIII, Part B—General.
405.802 Definitions.
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405.820 Right to hearing.
405.821 Request for hearing.
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405.826 Notice of hearing.
405.830 Conduct of the hearing.
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405.832 Dismissal of request for hearing.
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405.834 Hearing officer's decision.
405.835 Effect of hearing officer's decision.
405.841 Reopening initial or informal review determination of the carrier, and decision of a hearing officer.
405.842 Notice of reopening and revision.
405.850 Change of ruling or legal precedent.
405.860 Authority of the hearing officer.
405.870 Appointment of representative.
405.871 Qualifications of representatives.
405.872 Authority of representatives.

AUTHORITY: The provisions of this Subpart H issued under sections 1102, 1831–1843, 1871, 49 Stat. 647, as amended, 79 Stat. 301–313; 79 Stat. 331; 42 U.S.C. 1302, 1395 et seq.

Subpart H—Review and Hearing Under the Supplementary Medical Insurance Program

§ 405.801 Title XVIII, Part B—General.

(a) Section 1842(b)(3)(c) of the Act provides that a carrier shall establish and maintain procedures under which an individual enrolled in the supplementary medical insurance plan (see Subpart B of this part) is provided with the opportunity for a hearing by the carrier when he is dissatisfied with the carrier's determination denying a request for payment, or with the amount of payment under the supplementary medical insurance plan or when he believes that the request for payment is not being acted upon with reasonable promptness. A physician or other person who furnishes items or services to a person enrolled under the supplementary medical insurance plan and who accepts an assignment from the enrollee has the same right as the enrollee to appeal the carrier's determination.

(b) For the purpose of paragraph (a) of this section and determining whether action is being taken on a request for payment with reasonable promptness, it will be deemed unreasonable if the request for payment has not been acted upon within a period of 60 days after the receipt of such request by the carrier.

§ 405.802 Definitions.

As used in this Subpart H the term:

(a) "Carrier" means an organization which has entered into a contract with the Secretary pursuant to section 1842 of the Act and which is authorized to make determinations with respect to Part B of title XVIII of the Social Security Act.

(b) "Party" means an enrollee or an assignee or any other entity determined to have an appealable interest (i.e., the patient, physician) in the proceeding.

(c) "Enrollee" means an individual who was enrolled under Part B of title XVIII of the Social Security Act at the time the items and services for which payment is being requested were rendered.

(d) "Assignee" means a physician or other person who furnished covered services to an enrollee under the supplementary medical insurance plan and who has accepted a valid assignment executed by such enrollee.

(e) "Assignment" means an agreement between an enrollee and a physician or other person furnishing services under the supplementary medical insurance plan, which contains the following provisions:

(1) The enrollee transfers the right to request payment for such services to the physician or other person furnishing services under the supplementary medical insurance plan, and

(2) The physician, or other person furnishing such services to the enrollee, agrees to accept the carrier's determination of the reasonable charges for his services as his full charge for such services.

(f) "Representative" means any authorized individual qualified under § 405.871 to effectively represent any party to the proceeding.

§ 405.803 Initial determination.

(a) The carrier shall evaluate the evidence and make an initial determination with respect to the benefits to be paid under the supplementary medical insurance plan to any party who has filed a request for payment of such benefits.

(b) An initial determination for purposes of this subpart includes among others, a determination as to whether items and services furnished are covered; whether the deductible has been met; whether the receipted bill or other evidence of payment is acceptable; and whether the charges for items or services furnished are reasonable.

(c) For purposes of this subpart, a carrier may not make an initial determination with respect to any issue or factor for which the Social Security Administration has sole responsibility (for example, whether or not an individual is entitled to coverage under the supplementary medical insurance plan; whether an independent laboratory meets the conditions for coverage of services; etc.), or which relates to hospital insurance benefits under Part A of title XVIII of the Act.

§ 405.804 Notice of initial determination.

After a carrier has made an initial determination on a request for payment, written notice of this determination shall be mailed to each party to the determination at his last known address. The notice of the determination shall inform each party to the determination of his right to have such determination reviewed.

§ 405.805 Parties to the initial determination.

The parties to the initial determination (see § 405.803) are the enrollee and/or the assignee, and/or any other entity determined to have an appealable interest in the proceedings.

§ 405.806 Effect of initial determination.

The initial determination shall be final and binding upon the party or parties to such determination unless it is reviewed in accordance with §§ 405.810–405.812, or is revised in accordance with § 405.841.

§ 405.807 Filing for review of initial determination.

(a) *General; informal review.* A party to an initial determination by a carrier, who is dissatisfied with such initial determination, may request that the carrier review such determination. If a review is requested, such action shall not constitute a waiver of the right to hearing (see § 405.820) subsequent to such review.

(b) *Place of filing request.* A request for a carrier to review the initial determination is to be made in writing and filed at an office of the carrier which made the initial determination or at an office of the Social Security Administration.

(c) *Time of filing request.* The carrier shall provide a period of not less than 6 months after the date of the notice of the initial determination within which a party to the initial determination may request review. The carrier may, upon request by the party affected, extend the period for requesting the review.

§ 405.808 Parties to the review.

The parties to the review shall be the persons who were parties to the carrier's initial determination as described in § 405.805, and any other party whose rights with respect to the particular claim being reviewed may be affected by such review.

§ 405.809 Opportunity to submit evidence.

The parties to the review shall have a reasonable opportunity to submit written evidence and contentions as to fact or law relative to the claim at issue.

§ 405.810 Informal review determination.

The carrier shall review the claim in dispute and, upon the basis of the evidence of record, shall make an informal

review determination affirming or revising in whole or in part the findings and determination in question.

§ 405.811 Notice of informal review determination.

Written notice of the determination after informal review shall be mailed to the parties thereto at their last known addresses. The review determination shall state the basis therefor and advise the parties of their right to a hearing, the place and manner of requesting a hearing, and the time limit during which a hearing must be requested (see §§ 405.820 and 405.821).

§ 405.812 Effect of informal review determination.

The informal review determination shall be final and binding upon all parties to the informal review unless a hearing determination is rendered pursuant to a request made in accordance with § 405.821 or is revised in accordance with § 405.841.

§ 405.820 Right to hearing.

(a) *General.* Any party designated in § 405.822 shall be entitled to a hearing after an informal review determination has been made by the carrier, if such party files a written request.

(b) *Place of filing request.* The hearing request must be filed at an office of the carrier or at an office of the Social Security Administration.

(c) *Time of filing request.* The carrier shall provide a period of not less than 6 months after the date of the notice of the informal review determination within which a party to the initial or informal review determination may request a hearing. The carrier may, upon request by the party affected, extend the period for filing the request for hearing.

§ 405.821 Request for hearing.

A request for a hearing is any clear expression in writing by a party to a review determination which states, in effect, that he is dissatisfied with the carrier's review determination and wants further opportunity to appeal the matter to the carrier.

§ 405.822 Parties to a hearing.

The parties to a hearing shall be the persons who were parties to the carrier's informal review determination (§ 405.808) which is in question. Any other person may be made a party if that person's rights with respect to supplementary medical insurance benefits may be prejudiced by the decision, or if the hearing officer notifies him to appear at the hearing or to present such evidence and contentions of law or fact as he may desire in support of his interest.

§ 405.823 Hearing officer.

The hearing provided for in this subpart shall be conducted by a hearing officer designated by the appropriate official of the carrier.

§ 405.824 Disqualification of hearing officer.

A hearing officer shall not conduct a hearing in any case in which he is prejudiced or partial with respect to any party, or if he has any interest in the matter before him. Notice of any objection with respect to the hearing officer who will conduct the hearing shall be made by the objecting party at his earliest opportunity. The hearing officer shall consider such objection and shall, at his discretion, withdraw. If the hearing officer withdraws, the appropriate official of the carrier shall designate another hearing officer to conduct the hearing. If the hearing officer does not withdraw, the objecting party may present his objections to the carrier for consideration at any time prior to the issuance of a decision. The carrier shall review the request and take appropriate action. The fact that a hearing officer is an employee of the carrier may not serve as prima facie cause for disqualification.

§ 405.825 Location of hearing.

(a) *Time and place.* The hearing officer shall fix a time and place for the hearing reasonably convenient to the requesting party and not inconsistent with the public interest.

(b) *Adjournment or postponement.* The hearing officer may, for a good and sufficient reason, fix a new time and/or place for the hearing; he may change the time and place for the hearing or adjourn the hearing on his own motion upon reasonable notification to the parties.

§ 405.826 Notice of hearing.

The notice of hearing is to include notice of the time and place of the hearing; information as to the specific issues to be determined; and the matters on which findings will be made and conclusions will be reached. The notice is to contain sufficient information about the hearing procedure (including the party's right to representation) for effective preparation for the hearing.

§ 405.830 Conduct of the hearing.

(a) *General.* Hearings shall be open to the parties and to such other persons as the hearing officer deems necessary and proper for the orderly and efficient conduct of the hearing. The hearing officer shall inquire fully into the matters at issue and shall receive in evidence the testimony of witnesses and any documents which are relevant and material to such matters. The parties shall be provided an opportunity to enter any objection to the inclusion of any document. The order in which evidence and allegations shall be presented and the procedure at the hearing, except as this subpart otherwise expressly provides, shall be at the discretion of the hearing officer and of such nature as to afford the parties a proper hearing.

(b) *Evidence.* Evidence may be received at the hearing even though inadmissible under rules of evidence applicable to court procedures.

(c) *Witnesses.* The hearing officer may examine the witnesses and shall allow the parties or their representatives to do so. If the hearing officer conducts the examination of a witness, he may allow the parties to suggest matters upon which they desire the witness to be questioned, and the hearing officer shall question the witness with respect to such matters if they are relevant and material to any issue pending for decision before him.

(d) *Oral argument and written allegations.* The parties, upon their request, shall be allowed a reasonable time for the presentation of oral argument or for the filing of briefs or other written statements or allegations of facts or law.

(e) *Consolidated issues.* When one or more new issues are raised at any time after a request for hearing has been made, but before the mailing of notice of the decision, the hearing officer may, at his discretion, consider the issues along with the other issues pending before him on the same request for hearing.

§ 405.831 Waiver of right to appear and present evidence.

If all parties waive their right to appear before the hearing officer and present evidence and contentions personally or by representative, it shall not be necessary for the hearing officer to give notice of or conduct a formal hearing as provided in §§ 405.825 through 405.830. A waiver of the right to appear is to be in writing and filed with the hearing officer or the carrier. Such waiver may be withdrawn by a party at any time prior to the mailing of notice of the decision in the case. Even though all of the parties have filed a waiver of the right to appear and present evidence and contentions at a hearing before the hearing officer, the hearing officer may, nevertheless, give notice of a time and place and conduct a hearing as provided in §§ 405.825 through 405.830, if he believes that the personal appearance and testimony of the party or parties would assist him to ascertain the facts at issue in the case. For purposes of this section, failure of the parties to appear shall not be cause for a finding of abandonment and the hearing officer shall make his decision on the basis of all evidence adduced.

§ 405.832 Dismissal of request for hearing.

(a) *By application of party.* With the approval of the hearing officer, a request for a hearing may be withdrawn or dismissed at any time prior to the mailing of notice of the decision upon the application of the party or parties filing the request for such hearing. A party may request a dismissal by filing a written notice of such request with the carrier, the hearing officer or orally stating such request at the hearing. The dismissal of a request for hearing shall be final and binding unless vacated (see paragraph (d) of this section).

(b) *Dismissal by abandonment of party.* A hearing officer may dismiss a request for hearing upon abandonment by the party or parties who filed the request. A party shall be deemed to have abandoned a request for hearing, other than where personal appearance is waived in accordance with § 405.831, if neither the party nor his representative appears at the time and place fixed for

the hearing and within 10 days after the mailing of a notice to him by the hearing officer to show cause, such party does not show good and sufficient cause for such failure to appear and failure to notify the hearing officer prior to the time fixed for hearing that he cannot appear.

(c) *Dismissal for cause.* The hearing officer may, on his own motion, dismiss a hearing request, either entirely or as to any stated issue, under either of the following circumstances:

(1) Where the party requesting a hearing is not a proper party under § 405.822 or does not otherwise have a right to a hearing under section 1842(b)(3)(C) of the Act; or

(2) Where the party who filed the hearing request dies and there is no information before the hearing officer showing that an individual who is not a party may be prejudiced by the carrier's determination.

(d) *Vacation of dismissal.* A hearing officer may, on request of a party and for good and sufficient cause shown, vacate any dismissal of a request for hearing at any time within 6 months from the date of mailing notice of the dismissal to the party requesting the hearing at his last known address.

§ 405.833 Record of hearing.

A complete record of the proceedings at the hearing shall be made. The testimony shall be transcribed and copies of other documentary evidence shall be reproduced in any case when directed by the hearing officer, the carrier or the Administration. The record will also be transcribed and reproduced at the request of a party to the hearing provided he bears the cost thereof.

§ 405.834 Hearing officer's decision.

As soon as practicable after the close of a hearing, the hearing officer, except as provided in this subpart, shall make a decision in the case which shall be based upon the evidence adduced at the hearing (see §§ 405.820 to 405.830) or otherwise included in the hearing record (see § 405.833). The decision shall be made in writing and contain findings of fact and statement of reasons. A copy of the decision shall be mailed to each party to the hearing at his last known address.

§ 405.835 Effect of hearing officer's decision.

The hearing officer's decision, provided for in § 405.834, shall be final and binding upon all parties to the hearing unless it is revised in accordance with § 405.841.

§ 405.841 Reopening initial or informal review determination of the carrier, and decision of a hearing officer.

(a) *Initial or review determination.* An initial or review determination may be reopened and revised by the carrier on its own motion or, on the petition of any party to such determination within 1 year of the date of such determination, to allow for correction of a procedural or substantive defect in the proceedings.

(b) *Decision of hearing officer.* Either on the motion of the hearing officer, or upon the motion of any party to a hearing, any decision of a hearing officer may be reopened and revised by such hearing officer within 1 year of the date of such determination, or if such hearing officer is unavailable for reasons including death, termination of employment, illness, or leave of absence, by another hearing officer selected by the carrier.

§ 405.842 Notice of reopening and revision.

(a) *Notice.* When any determination or decision is reopened as provided in § 405.841, notice of such reopening shall be mailed to the parties to such determination or decision at their last known addresses. A notice of revision following a reopening of a decision, shall be mailed to the parties and shall state the basis for the revised determination or decision.

(b) *Effect of revised determination.* The revision of a determination shall be final and binding upon all parties thereto unless a party (see § 405.841) files a written request for a hearing with respect to a revised determination.

§ 405.850 Change of ruling or legal precedent.

Change of a legal interpretation or administrative ruling upon which a determination or decision was made shall not be considered as good and sufficient reason for reopening the determination or decision.

§ 405.860 Authority of the hearing officer.

The hearing officer in exercising the authority to conduct a hearing under section 1842(b)(3)(C) of the Act is to comply with all the provisions of title XVIII of the Act and regulations issued thereunder, as well as with policy statements, instructions and other guides issued by the Social Security Administration in accordance with the Secretary's agreement with the carriers.

§ 405.870 Appointment of representative.

A party to an initial determination, informal review or hearing as provided in §§ 405.803 through 405.834, may appoint as his representative in any such proceeding any person qualified under § 405.871. Where the representative is an attorney, in the absence of information to the contrary, his representation that he has such authority shall be accepted as evidence of the attorney's authority to represent a party.

§ 405.871 Qualifications of representatives.

Any individual may be appointed to act as representative in accordance with § 405.870, unless he is disqualified or suspended from acting as a representative in proceedings before the Social Security Administration or unless otherwise prohibited by law.

§ 405.872 Authority of representatives.

A representative, appointed and qualified as provided in §§ 405.870 and 405.871, may make or give, on behalf of the party he represents, any request or notice relative to any proceeding before the carrier including review and hearing. A representative shall be entitled to present evidence and allegations as to facts and law in any proceeding affecting the party he represents and to obtain information with respect to the claim of such party to the same extent as such party. Notice to any party of any action, determination, or decision, or request to any party for the production of evidence, shall be sent to the representative of such party.

[F.R. Doc. 67-14631; Filed, Dec. 15, 1967; 8:47 a.m.]

[Regs. No. 22]

PART 422—ORGANIZATION AND PROCEDURES

Subpart F—Applications and Related Forms

Regulations No. 22 of the Social Security Administration, as amended (20 CFR 422.1 et seq.) are further amended by adding new Subpart F to reads as follows:

Subpart F—Applications and Related Forms

Sec.

422.501 Applications and other forms used in Social Security Administration programs.

422.505 Applications and related forms for retirement, survivors, and disability insurance programs.

422.510 Applications and related forms used in the health insurance for the aged program.

422.515 Forms used for withdrawal, reconsideration and other appeals, and appointment of representative.

422.520 Forms related to maintenance of earnings records.

422.525 Where applications and other forms are available.

AUTHORITY: The provisions of this Subpart F secs. 205, 1102, and 1871, 53 Stat. 1368, as amended, 49 Stat. 647, as amended, 79 Stat. 331; sec. 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18, 631; 42 U.S.C. 405, 1302 and 1395hh.

Subpart F—Applications and Related Forms

§ 422.501 Applications and other forms used in Social Security Administration programs.

This subpart lists the applications and some of the related forms prescribed by the Social Security Administration for use by the public in applying for benefits under titles II and XVIII of the Social Security Act. It also includes information as to where such forms may be obtained.

§ 422.505 Applications and related forms for retirement, survivors, and disability insurance programs.

(a) *Application forms.* The application forms used by the public to file claims for benefits under title II of the Act are as follows:

OA-C1—Application for Retirement Insurance Benefits.

SSA-2—Application for Wife's Insurance Benefits. (For use by a wife or divorced wife (see section 202(b) of the Act) of an individual entitled to retirement or disability insurance benefits.)

OA-C4—Application for Child's Insurance Benefits. (For use in applying for benefits for a child or children of a living wage earner or self-employed person.)

SSA-5—Application for Mother's Insurance Benefits. (For use by a widow, or surviving divorced mother (see section 202 (g) of the Act), applying for mother's insurance benefits and, if the applicant is a widow, as an application for a lump-sum death payment.)

OA-C6—Application for Surviving Child's Insurance Benefits. (For use in applying for benefits for a child or children of a deceased wage earner or self-employed person.)

OA-C7—Application for Parent's Insurance Benefits.

SSA-8—Application for Lump-Sum Death Payment.

OA-C10—Application for Widow's Insurance Benefits. (For use by a claimant who was previously entitled as a widow to the lump-sum death payment, or who was previously entitled as a widow or surviving divorced mother to monthly benefits.)

SSA-10A—Application for Widow's Insurance Benefits. (For use by a widow or surviving divorced wife (see section 202(e) of the Act) who is filing an initial claim on the deceased's earnings record and, in the case of a widow applicant, it also constitutes an application for the lump-sum death payment.)

OA-C13—Application for Widower's Insurance Benefits.

SSA-14—Application for Husband's Insurance Benefits.

SSA-16—Application for Disability Insurance Benefits. (For use by an applicant for a period of disability or for a period of disability and monthly disability insurance benefits.)

SSA-19—Application for Special Age-72-Or-Over Monthly Payments. (For use by an applicant age 72 or over who is neither fully nor transitionally insured (see §§ 404.109 and 404.113a of this chapter).)

OA-C24—Application for Survivors Benefits Payable Under Title II of the Social Security Act. (For use by survivors of veterans when filing an application for Veterans' Administration benefits with the Veterans' Administration. It is available at the various offices of the Veterans' Administration.)

(b) *Related forms.* The following are some related forms:

SSA-3—Husband's Certification. (For use in in connection with Application for Wife's Insurance Benefits, Form OA-C2.)

OA-C8a—Supplement to Form OA-C8 (Application for Lump-Sum Death Payment). (For use with a funeral home's application for lump-sum death payment, Form OA-C8.)

SSA-11—Application To Be Selected as Payee. (For use when the individual proposing to be substituted for current payee files application to receive payment of benefits on behalf of himself, a disabled child or child under age 18, a student beneficiary, or an incompetent beneficiary.)

SSA-15—Wife's Certification. (For use in connection with Application for Husband's Insurance Benefits, Form OA-C14.)

SSA-17—Disabled Child—Statement Regarding Disability. (For use in connection with a request for payment of child's insurance benefits for a child who is age 18 or over and is under a disability which began before age 18.)

OA-C23—Supplement for Claim on Behalf of Child Outside the United States. (To be completed for a child who is, was, or will be outside the United States.)

SSA-25—Certificate of Election for Reduced Wife's Benefits. (For use by a wife age 62 through 64 who has an entitled child in her care and elects to receive reduced benefits for months during which she will not have a child in her care.)

SSA-719—Statement of Burial Expenses by Funeral Director. (To be completed by the funeral director in connection with an individual's (other than a widow or widower who was living in the same household with the insured individual at the time of his death) application authorizing direct payment of the lump-sum death payment to the funeral director.) (See Form OA-C8 under § 422.505(a).)

SSA-721—Statement of Death by Funeral Director. (This form may be used as evidence of death (see § 404.704 of this chapter).)

OA-C760—Certificate of Support (Parent's, Husband's, or Widower's).

OA-C766—Statement of Self-Employment Income. (For use by a claimant to establish insured status based on self-employment income in the current year.)

OA-C780—Certificate of Applicant for Benefits on Behalf of Another. (This form accompanies an individual's or institution's request to be selected payee for a beneficiary and is used to determine the requester's interest in the welfare of the beneficiary.)

SSA-786—Physician's Statement. (For use in requesting medical evidence of a beneficiary's capacity to manage benefits.)

OA-D823—Request for Medical Evidence to Hospital or Institution. (For use in requesting information regarding hospitalization or treatment of a disability claimant.)

OA-D824—Report on Individual with Mental Impairment. (For use in requesting information regarding a disability claimant's mental impairment.)

SSA-826—Medical Report—General. (For use in obtaining medical information concerning a disability claimant.)

SSA-826.1—Medical Report—Pulmonary Tuberculosis. (For use in requesting medical evidence from a hospital in which a disability claimant is confined for the treatment of tuberculosis.)

SSA-827—Applicant's Request for Medical Information. (To be completed by a disability claimant to authorize release of medical information.)

SSA-1001—Statement of Employer. (For use by an employer to provide evidence of quarterly wage payments.)

SSA-1002—Statement of Agricultural Employer. (For use by an employer to provide evidence of annual wage payments for agricultural work.)

SSA-1372—Statement Regarding School Attendance. (For use in connection with a request for payment of child's insurance benefits for a child who is age 18 through 21 and a full-time student.)

SSA-1372A—Certification by School Official of Student's Full-Time Attendance. (For use with requests for child's insurance benefits for students age 18 through 21.)

SSA-1372A(F)—Statement to U.S. Social Security Administration by School Outside the United States About Student's Attendance. (For use in connection with a request for payment of child's insurance benefits for a child who is age 18 through 21 and a full-time student outside the United States.)

SSA-1384—Student's Statement of Intent To Continue Schooling. (For use by a student beneficiary in determining eligibility for continuing child's insurance benefits during a period of nonattendance in school of not more than 4 calendar months' duration.)

SSA-1442—Statement by Divorced Woman Regarding Contributions and Support From Her Former Husband.

SSA-7156—Farm Self-Employment Questionnaire. (For use in connection with claims for benefits based on farm income to determine whether the income is covered under the Social Security Act.)

SSA-7160—Employment Relationship Questionnaire. (For use by an individual and the alleged employer to determine the individual's employment status.)

OAC-7203—Sick Pay and Plan or System Questionnaire. (To be completed by an employer for the purpose of determining the nature of special payments to an employee.)

§ 422.510 Applications and related forms used in the health insurance for the aged program.

(a) *Application forms.* The following forms are prescribed for use in applying for entitlement to benefits under the health insurance for the aged program:

SSA-18—Application for Hospital Insurance Entitlement. (For use by individuals who are not entitled to retirement benefits under title II of the Social Security Act or under the Railroad Retirement Act. This form may also be used for enrollment in the supplementary medical insurance benefits plan.)

SSA-40—Application for Enrollment in the Supplementary Medical Insurance Program. (This form is mailed directly to beneficiaries at the beginning of their initial enrollment period.)

SSA-40A—Application for Enrollment in Supplementary Medical Insurance. (For use by civil service employees who are not eligible for enrollment in the hospital insurance plan.)

SSA-40B—Application for Medical Insurance. (For general use in requesting medical insurance protection.)

SSA-40C—Application for Enrollment. (This form is mailed to beneficiaries as a followup on Form SSA-40 (Application for Enrollment in the Supplementary Medical Insurance Program).)

SSA-40F—Application for Medical Insurance. (For use by beneficiaries residing outside the United States.)

An individual who upon attainment of age 65 is entitled to a monthly benefit based on application OA-C1, SSA-2, OA-C7, OA-C10, SSA-10A, OA-C13, or SSA-14 is automatically entitled to hospital insurance protection. (For conditions of entitlement to hospital insurance benefits see § 405.102 of this chapter.) For medical insurance protection, an applicant must request supplementary medical insurance coverage (see Forms SSA-40, SSA-40A, SSA-40B, SSA-40C, and SSA-40F under § 422.510(a)). (For conditions of entitlement to supplementary medical insurance benefits see § 405.202 et seq. of this chapter.)

(b) *Related forms.* The following are the prescribed forms for use in requesting payment for services under the hospital insurance benefits program and the supplementary medical insurance benefits program:

SSA–1453—Inpatient Hospital Admission and Billing. (To be completed by hospital for payment of hospital expenses for treatment of patient confined in the hospital.)

SSA–1478—Extended Care Admission and Billing. (To be completed by an extended care facility for payment of post-hospital services.)

SSA–1483—Outpatient Hospital Billing. (To be completed by hospital for payment of hospital expenses for treatment of patient who is not confined in the hospital.)

SSA–1484—Explanation of Accommodation Furnished. (To be completed by the hospital to explain accommodation of a patient in other than a semi-private (2- to 4-bed) room.)

SSA–1485—Inpatient Psychiatric or Tuberculosis Hospital Admission and Billing.

SSA–1486—Inpatient Admission and Billing—Christian Science Sanatorium (To be completed by Christian Science Sanatoriums for payment for treatment of patients confined in the sanatorium.)

SSA–1487—Home Health Agency Report and Billing. (For use by an organization providing home health services.)

SSA–1490—Request for Payment. (For use by patient or physician to request payment for medical expenses.)

SSA–1554—Provider Billing for Patient Services by Physicians. (For use by hospitals for payment for services provided by hospital-based physicians.)

SSA–1556—Prepayment Plan for Group Medical Practices Dealing Through a Carrier. (For use by organizations (which have been determined to be Group Practice Prepayment Plans for Medicare purposes) for reimbursement for medical services provided to beneficiaries.)

SSA–1966—Health Insurance Card. (This card is issued to a person entitled to benefits under the health insurance for the aged program and designates Whether he is entitled to hospital insurance benefits or supplementary medical insurance benefits or both.)

§ 422.515 Forms used for withdrawal, reconsideration and other appeals, and appointment of representative.

The following is a list of forms prescribed by the Social Security Administration for use by the public to request a withdrawal of an application, a reconsideration of an initial determination, a hearing, a review of a hearing examiner's decision, or for appointment of a representative:

OA–C521—Request for Withdrawal of Application. (For use by an individual to cancel his application.)

OA–C561—Request for Reconsideration. (For use by an individual who disagrees with an initial determination concerning (a) entitlement to benefits or any other right under title II of the Social Security Act, or (b) entitlement to hospital insurance benefits or supplementary medical insurance benefits under title XVIII of the Act, or (c) the amount of hospital insurance benefits under such title XVIII to obtain a review of his case. See § 422.140 for a discussion of the reconsideration procedure.)

HA–501—Request for Hearing. (For use by an individual or institution to obtain a hearing before a hearing examiner of the Social Security Administration. See § 422.203 for a discussion of the hearing procedure.)

HA–512—Appointment of Representative. (For use by person other than an attorney authorized by a claimant to act for him in a claim or related matter.)

HA–512.1—Notice by Attorney of Appointment as Representative. (For use by an attorney authorized by a claimant to act for him in a claim or related matter.)

HA–520—Request for Review of Hearing Examiner's Action. (For use by an individual or institution to obtain a review of a decision by a hearing examiner of the Social Security Administration.)

§ 422.520 Forms related to maintenance of earnings records.

The following forms are used by the Social Security Administration and by the public in connection with the maintenance of earnings records of wage earners and self-employed persons:

SS–4—Application for Employer Identification Number.

SS–4A—Agricultural Employer's Application. (For use by employers of agricultural workers to request an employer identification number under the FICA.)

SS–5—Application for Social Security Number (or Replacement of Lost Card).

SS–15—Certificate Waiving Exemption From Taxes Under the FICA. (For use by certain nonprofit organizations requesting coverage of its employees.)

SS–15a—List of Concurring Employees. (To be signed by each employee who concurs in the filing of the Certificate Waiving Exemption From Taxes Under the FICA, Form SS–15.)

OASI–21—Social Security and Your Household Employee. (For use by employers of household workers to request information from the District Director of Internal Revenue regarding filing employee tax reports.)

OA–702—Account Number Card.

OA–702.1—Duplicate Account Number Card.

Form 2031—Waiver Certificate To Elect Social Security Coverage for Use by Ministers, Certain Members of Religious Orders, and Christian Science Practitioners.

Form 4029—Application for Exemption From Tax on Self-Employment Income, and Waiver of Benefits. (To be completed by self-employed individuals who are members of certain recognized religious sects (or division thereof) and do not wish to pay FICA taxes or participate in the programs provided under titles II and XVIII.)

OAAN–5028—Temporary Account Number Card.

OAAN–7003—Request for Change in Social Security Records. (For use by an individual to change information given on original application for an account number.)

OAR–7004—Request for Statement of Earnings. (For use by worker to obtain a statement of earnings recorded in his earnings record.)

OAR–7008—Request for Correction of Earnings Record. (For use by an individual who wishes to have his earnings record revised.)

SSA–7011—Statement of Employer. (For use by an employer to provide evidence of wage payments in cases of a wage discrepancy in an individual's earnings record.)

§ 422.525 Where applications and other forms are available.

Forms for use in requesting payment for services provided under the health insurance for the aged programs can be obtained from the intermediaries or carriers (organizations under contract with the Social Security Administration to make payment for such services). All applications and other forms can be obtained from any social security district office or branch office (see § 422.5). Form 2031 (Waiver Certificate To Elect Social Security Coverage for Use by Ministers, Certain Members of Religious Orders, and Christian Science Practitioners), Form 4029 (Application for Exemption From Tax on Self-Employment Income, and Waiver of Benefits), Form SS–4 (Application for Employer Identification Number), Form SS–4A (Agricultural Employer's Application for Identification Number), Form SS–15 (Certificate Waiving Exemption From Taxes Under the FICA), and Form SS–15a (List of Concurring Employees) can also be obtained from offices of District Directors of Internal Revenue. For other offices where applications and certain other forms can be obtained, see Subparts B and C of this part.

Effective date. The foregoing regulations shall become effective upon publication in the FEDERAL REGISTER.

Dated: November 27, 1967.

[SEAL] ROBERT M. BALL,
Commissioner of Social Security.

Approved: December 9, 1967.

WILBUR J. COHEN,
Acting Secretary of Health, Education, and Welfare.

[F.R. Doc. 67–14633; Filed, Dec. 15, 1967; 8:48 a.m.]

Title 23—HIGHWAYS AND VEHICLES

Chapter II—Vehicle and Highway Safety

[Docket No. 9]

PART 255—INITIAL FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Lamps, Reflective Devices, and Associated Equipment—Multipurpose Passenger Vehicles, Trucks, Trailers, and Buses, 80 Inches or More in Overall Width

Motor Vehicle Safety Standard No. 108 (32 F.R. 2411) specifies requirements for lamps, reflective devices and associated equipment for multipurpose passenger vehicles, trucks, trailers, and buses, 80 inches or more in overall width.

Paragraph S3.1.1.3 permits the installation of additional lamps, reflective devices and associated equipment, provided they do not impair the effectiveness of the required equipment.

Paragraphs S3.1.1 and S3.2.1 and Tables I and II require that trailers be equipped with rear identification lamps, located as close as practicable to the vertical centerline of the trailer; and with front and rear clearance lamps, located at the upper left and right extreme edges of the trailer.

Paragraph S3.1.1 and Table I require that applicable vehicles be equipped with a license plate lamp and a backup lamp.

Paragraph S3.1.1 and Table I require that vehicles be equipped with lamps

conforming to certain SAE standards. A number of these SAE standards specify that bulb sockets conform to SAE Standard J567, "Bulb Sockets", August 1965.

Paragraph S3.2.1 and Table II require that front side reflex reflectors and front side-marker lamps be located as far forward as practicable on the side of the vehicle.

Paragraph S3.4.3 requires that taillamps, license plate lamps, and side-marker lamps be illuminated when the headlamps are illuminated.

Paragraph S3.4.7 requires that a means for indicating to the driver that the turn signal system is energized be provided in accordance with SAE standard J588d, "Turn-Signal Lamps", June 1966.

Paragraph S3.5 requires that all lamps specified in Table I be steady-burning except turn-signal lamps, which shall flash.

The National Highway Safety Bureau has determined that—

(a) Clarification is needed with respect to the extent to which additional equipment may be installed without exceeding the provisions of paragraph S3.1.1.3;

(b) Due to the special configuration and utilization of boat trailers, need has been shown for additional time to comply with the requirements for identification lamps, clearance lamps, and front side-marker lamps.

(c) Due to the essentially triangular configuration of some trailers, it would not be practicable to apply the location requirements for front side reflex reflectors and front side-marker lamps to these trailers;

(d) Clarification is needed with respect to the number of license plate lamps and backup lamps that may be used to meet the requirement of the standard;

(e) Bulb sockets other than those conforming to SAE Standard J567 may be suitable for use;

(f) With respect to the requirement of paragraph S3.4.3, illumination of the taillamps when the headlamps are illuminated will provide rear lighting while permitting more reliable switching and lighting systems and a more effective balance of the electrical loads imposed on these systems;

(g) With respect to the means of indicating turn-signal operation required by S3.4.7, the exception of truck tractor-trailer combinations with variable load flashers, as permitted by SAE Standard J588d, should be equally applicable to other vehicles using variable load flashers; and

(h) Clarification is needed with respect to the requirement for steady-burning lamps as specified in S3.5.

Therefore the standard is being amended—

(a) To specify that no additional lamp, reflective device, or associated equipment shall be installed if it impairs the effectiveness of the required equipment;

(b) By adding new paragraphs S3.1.1.3 and S3.1.1.4 to except boat trailers from location requirements for clearance lamps and to extend the effective date of requirements for identification lamps, clearance lamps, and front side-marker lamps on boat trailers to June 1, 1968, respectively;

(c) By adding a new paragraph S3.2.1.4 to provide an alternative means of complying with the location requirement for front side reflex reflectors and front side-marker lamps on trailers;

(d) By adding new paragraph S3.1.1.5, to provide that two or more lamps, functioning as a system, may be used to fulfill the illumination requirements of a single license plate lamp or a single backup lamp;

(e) By adding new paragraph S3.1.1.6 to provide for the use of SAE J822 wedge base type bulb sockets as an alternative to the sockets specified in SAE Standard J567;

(f) To require in paragraph S3.4.3 that only the taillamps need be illuminated when the headlamps are illuminated, and to extend the effective date of this amended requirement to May 1, 1968;

(g) To except from the requirements of paragraph S3.4.7 all vehicles using a variable load flasher; and

(h) To permit temporary flashing of steady-burning lamps for signalling purposes.

In addition, a definition of "boat trailer" is being added to § 255.3(b).

Since these amendments provide clarification and alternative means of compliance, relieve restrictions, and impose no additional burden on any person, notice and public procedure hereon are unnecessary. The Administrator finds, for good cause shown, that an effective date earlier than 180 days after issuance is in the public interest because an early effective date is in the interest of motor vehicle safety.

In consideration of the foregoing, Part 255, Initial Federal Motor Vehicle Safety Standards, section 255.3(b) and section 255.21 are amended as follows:

1. In section 255.3(b), the following new definition is added:

"Boat trailer" means a trailer designed with cradle-type mountings to transport a boat and configured to permit launching of the boat from the rear of the trailer.

2. In § 255.21, Motor Vehicle Safety Standard No. 108 (32 F.R. 2411):

(a) Paragraph S3.1.1 is revised to read as follows:

S3.1.1 Except as provided in S.3.1.1.1 through S3.1.1.6, vehicles shall be equipped with lamps, reflective devices and associated equipment, in the number of units and designed to conform to the standards specified in Table I.

(b) The following new paragraph is added after paragraph S3.1.1:

S.3.1.2 No additional lamp, reflective device, or associated equipment shall be installed if it impairs the effectiveness of the required equipment.

(c) Present paragraph S3.1.1.3 is revoked and new paragraph S3.1.1.3 is added to read as follows:

S3.1.1.3 Boat trailers need not be equipped with front and rear clearance lamps located as specified in Table II, provided amber (to front) and red (to rear) clearance lamps are located on each side at or near the midpoint between front and rear of the trailer and indicate the extreme width of the trailer.

(d) The following new paragraphs are added after paragraph S3.1.1.3:

S3.1.1.4 Until June 1, 1968, boat trailers need not be equipped with identification lamps, clearance lamps, or front side-marker lamps.

S3.1.1.5 Two or more license plate lamps and two or more backup lamps may be used to fulfill the requirements specified in Table I for a single license plate lamp and a single backup lamp, respectively.

S3.1.1.6 Wedge base type bulb sockets conforming to SAE Recommended Practice J822, "Wedge Base Type Socket", April 1962, may be used in lieu of the bulb sockets specified by SAE Standard J567, "Bulb Sockets", August 1965.

(e) The following new paragraph is added after paragraph S3.2.1.3:

S3.2.1.4 On trailers, the amber front side reflex reflector and amber front side-marker lamp may be located as far forward as practicable exclusive of the trailer tongue.

(f) Paragraphs S3.4.3, S3.4.7, and S3.5 are revised to read as follows:

S3.4.3 As a minimum the taillamps of vehicles manufactured on or after May 1, 1968, shall be illuminated when the headlamps are illuminated.

S3.4.7 Except on vehicles using variable load flashers, a means for indicating to the driver that the turn-signal system is energized shall be provided in accordance with SAE Standard J588d, "Turn-Signal Lamps", June 1966.

S3.5 *Lighting display.* When energized, each lamp specified in Table I shall, in normal operation, be steady-burning except turn-signal lamps and hazard warning signal lamps which shall flash. However, normally steady-burning lamps may be capable of being flashed for signaling purposes.

(Secs. 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966; 15 U.S.C. 1392, 1407; and the delegation of authority of Mar. 31, 1967 (32 F.R. 5606), as amended Apr. 6, 1967 (32 F.R. 6495), July 27, 1967 (32 F.R. 11276), and Oct. 11, 1967 (32 F.R. 14277), and become effective Jan. 1, 1968)

Issued in Washington, D.C., on December 11, 1967.

LOWELL K. BRIDWELL,
Federal Highway Administrator.

[F.R. Doc. 67-14535; Filed, Dec. 15, 1967; 8:45 a.m.]

[Docket No. 9]

PART 255—INITIAL FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Lamps, Reflective Devices, and Associated Equipment—Passenger Cars, Multipurpose Passenger Vehicles, Trucks, Buses, Trailers, and Motorcycles

A proposal to amend § 255.21 of Part 255, Initial Federal Motor Vehicle Safety

Standards, by amending Standard No. 108 (32 F.R. 2411) and by adding Standard No. 112 was published in the FEDERAL REGISTER on February 3, 1967 (32 F.R. 2418).

The requirements of proposed Standard No. 112 have been combined with the proposed amendments to Standard No. 108 and are now being issued as a complete revision of Standard No. 108, applicable to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers, and motorcycles.

Interested persons have been afforded an opportunity to participate in the making of the amendments.

Several comments objected to the provision which permits optional use of either reflective materials (conforming to Federal Specification L–S–300, obtainable from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402) or plastic type reflctors (conforming to SAE Standard J594c) for side reflex reflectors. The basis of this opposition was the variance in test procedures and requirements for the two materials, particularly with respect to weatherability and color performance. The Administrator agrees that the differences do exist between the specification and the SAE standard; however, these differences are considered natural (since two widely different materials are involved) and will not reduce the effectiveness or durability of the materials when used for side reflex reflectors. Also, an adequate level of reflective illumination has been assured by requiring that both materials conform to the photometric values of Table I, SAE Standard J594c. Design flexibility, which will be permitted by optional use of either material, is considered desirable and, in many instances, will contribute to traffic safety. Accordingly, the requirement has been included, without change, in revised Standard No. 108.

One comment contended that Federal Specification L–S–300 represents requirements for a proprietary material. The Administrator does not agree, because this specification is a performance-type specification. In addition, this requirement is only an alternative to the performance requirements for plastic type reflectors conforming to SAE J594c.

Several comments claimed that the proposed requirements for school bus lighting were special and had been adopted by only a few States and that the economic burdens and driver retraining, which would be imposed by the requirements, would be substantial. They further noted that the proposed requirements were not in accordance with the regulations of many States or the national standards established by the National Conference on School Transportation. The Administrator is convinced that special consideration should be given to the subject of school bus lighting, and that all issues should be carefully weighed before establishing requirements for a single system in a Federal Standard. Accordingly, the proposed requirements have been included in revised Standard No. 108 as a lighting system that may be used as an alternative to a system with red warning lights only. Switching requirements for both systems have been delineated in the revised Standard.

Several comments recommended that amber school bus warning lamps be required to provide at least 2½ times the photometric candlepower of red warning lamps. The Administrator agrees that this recommendation has merit and is in accord with industry practice. Accordingly, revised Standard No. 108 includes this requirement.

Several comments contended that, for vehicles with air service brake systems, special design and production problems would be imposed by the requirement that the stop lamp be activated when emergency brakes are operated. They claimed that further investigations were necessary for the purpose of eliminating possible current feedback and determining component reliability. The Administrator agrees that careful consideration should be given to the redesign and evaluation of an air brake system to assure reliable performance. However, the design problems cited by the comments do not appear to involve any major new developments or extensive endurance type testing. The components that make up the redesigned system are presently available and their performance and reliability characteristics are generally known. Therefore, the requirement, as proposed, has been included in revised Standard No. 108.

Numerous European comments requested reciprocal recognition of existing Economic Commission for Europe (ECE) Regulations with the SAE standards on lighting equipment specified in the proposal. Specifically cited were ECE Regulations 3 and 4 on reflex reflectors and license plate lamps, respectively; and proposed regulations on turn-signal lamps and other miscellaneous lamps. The comments noted that Regulation 3 had been adopted by eleven European countries and that Regulation 4 had been adopted by four. The Administrator believes that an accurate technical comparison of performance requirements of the ECE regulations and related SAE standards is not possible, since specified test procedures and requirements vary considerably between the two documents. While effectiveness of the ECE regulations in promoting traffic safety in Europe is not questioned, the Administrator considers that extensive, time-consuming investigations and tests would have to be conducted to determine their effectiveness under traffic conditions encountered in the United States. Therefore, their use in the United States is not being specified.

Several comments recommended that the color designation range of red to amber, for stop lamps and turn-signal lamps, be changed to red or amber, since the two colors are readily identified by existing SAE standards. The Administrator agrees; therefore, this change has been reflected in the Tables of the revised standard.

Several comments objected to the proposed requirement for Class A reflex reflectors on the rear of vehicles manufactured on or after January 1, 1969. The Administrator believes that the increased effectiveness of Class A reflectors has been thoroughly validated. However, to provide the necessary lead time for retooling, a provision has been included in revised Standard No. 108 to postpone this requirement for passenger cars until January 1, 1970.

Several comments were opposed to the requirement for four side-marking devices (two lamps and two reflectors) on each side of the vehicle. The primary reasons for this opposition were that no substantiating evidence is available to indicate that four devices would contribute to traffic safety and, therefore, the requirement exceeds the intent of the National Traffic and Motor Vehicle Safety Act; and that two devices (either lamps or reflectors) are adequate and would be visible from a distance of 600 feet. These devices are normally placed in an extremely vulnerable position and, therefore, it is only speculative that all will be in operating condition 100 percent of the time, once the vehicle is put into use. Four devices instead of two will provide added assurance that the vehicle is adequately marked. Therefore, the requirement for both side-marker lamps and side reflex reflectors has been retained in revised Standard No. 108, with a provision that only two markers, either lamps or reflectors, need be provided until January 1, 1970.

Several comments observed that a definition of the term "curb weight" has been issued by the Administrator. To avoid ambiguity and diversity of interpretation, they recommended that the term "vehicle at curb weight" be substituted for the term "unloaded vehicle" appearing in heading of Column 4, Table II. The Administrator agrees with this recommendation and the substitution has been made in revised Standard No. 108.

Several comments observed that an interpretation of the term "emergency brake" (32 F.R. 3390), February 27, 1967, had previously been issued. Since this interpretation was addressed to Standard No. 105, the comments questioned whether or not the same interpretation applies to "emergency brake" as used in Standard No. 108. Although addressed to Standard No. 105, the interpretation refers to § 255.3(b) of the Motor Vehicle Standards, and is, therefore, applicable to standards other than Standard No. 105.

Several comments requested that use of any size headlamp be permitted, provided it meets the performance requirements of the specified SAE standard. The Initial standard, requires headlamps conforming to existing SAE Standard J579a, which limits lamp sizes to 7-inch diameter and 5¾-inch diameter. A number of related and cross-referenced SAE test standards and equipment standards provide supporting test procedures, data, and equipment, which are based on the two lamp sizes specified in SAE J579a. The Administrator believes that introduction of sizes other than the J579a size

would require the preparation or selection of similar interrelated test procedures and requirements, which could easily vary with each additional lamp size. This operation would be too time-consuming to permit incorporation of an alternative requirement in revised Standard No. 108. Accordingly, these comments will be considered for future rule-making.

A number of European comments requested that use of a license plate lamp conforming to ECE Regulation 4 be permitted as an alternative to a lamp conforming to SAE J587b. As previously stated, the Administrator believes that a direct comparison of performance of lamps conforming to the ECE regulation and those conforming to the SAE standard is not possible, since test procedures and requirements vary considerably. Regulation 4 requires photometric tests using two different test plates—one 13.386'' x 9.449'' and one 20.472'' x 4.724'', while SEA J587b requires that photometric tests be conducted on one test plate which is 6'' x 12''. As a result location of test points, area of test points, and luminous values also vary considerably. To determine the relative effectiveness of the Reguation 4 and SAE J587b lamps when applied to vehicles would require considerable study and tests, which would result in an extended delay in issuance of revised Standard No. 108. Therefore the requirement for SAE J587b lamps has been retained in revised Standard No. 108.

Several European comments requested that use of white parking lamps be permitted as an alternative to amber lamps, since white lamps are required by regulation in most European countries. The selection of a single color for parking lamps is considered to be essential for standardization of lamp coloring and identification in the United States. Consequently, the requirement for amber parking lamps has been retained in revised Standard No. 108.

Numerous European comments urged that use of reflex reflectors conforming to ECE Regulation 3 be permitted as an alternative to reflectors conforming to SAE J594c. Again, the Administrator believes that a direct comparison of the performance values of Regulation 3, and SAE J594c reflectors cannot be made because of varying test procedures and test requirements. On a generalized basis it can be determined that the Regulation 3, Class I, reflector will provide a minimum candlepower of approximately twice that of a SAE Class B and approximately one-fourth that of a SAE Class A reflector. SAE J594c specifies that Class A reflectors should be visable at night from all distances between 100 feet and 600 feet when illuminated by the upper headlight beam. Under similar conditions, the Regulation 3, Class I, reflector will provide visability at a distance of approximately 460 feet. The major objections to SAE Class A reflectors appear to be based on the size required to provide the specified photometric values. However, no size requirements are imposed by the referenced SAE Standard J594c. Therefore, the requirement for Class A reflectors is being retained as proposed.

One comment objected to the 45° horizontal visibility angle as specified for SAE J592b side-marker lamps, claiming a 20° angle to be more realistic, particularly for passenger cars, which would, in some instance, permit use of combination tail or parking and side-marker lamps. The comment further indicated that the 45° angle was intended solely for truck applications; that a 20° angle far exceeds a 3° angle, which would be obtained by application of a Federal Standard No. 515/23 lamp to a small passenger car; and that the 20° angle would result in less blind angle than is currently permitted by Standard No. 108 on vehicles approaching, but not exceeding, a 30-foot length. The Administrator agrees that the ability to combine tail or parking lamps with side-marker lamps is desirable from both a design and an economic standpoint. Accordingly, requirements for side-marker lamps have been revised to permit optional use of either lamps conforming to SAE J592b or lamps that provide, at a distance of 15 feet from the vehicle and on a vertical plane that is perpendicular to the longitudinal axis of the vehicle and located midway between the front and rear side-marker lamps, photometric values equivalent to those of the SAE J592b lamps.

Many comments, while concurring with the photometric requirements, objected to the 12 square inch dimensional requirements of SAE J588d Class A turn-signal lamps. In addition to general comments regarding redesign and tooling problems imposed, major arguments included the following: Class A turn-signal lamps are intended for use on large trucks above 80 inches overall width; use of optically combined lamps will be promoted, thereby eliminating effectiveness of separate, more distinctive lamps with different coloring; greater difficulty will be experienced in distinguishing between signals of slow moving commercial vehicles and passenger cars; and the high luminous level of large lamps will be objectionable under certain driving conditions. The Administrator recognizes that Class A photometric values may be obtained with less than the specified area of 12 square inches. However, the possibility of an extremely small area, with Class A photometric values, producing a blinding effect on observers is also recognized. Accordingly, and until further research establishes the most effective size, revised Standard No. 108 will permit the use of turn-signal lamps having Class A photometric values and a minimum area of Class B lamps.

Numerous comments recommended a relaxation of the proposed visibility requirements for backup lamps. While they admitted that this requirement can be met with a completely exposed lamp, they emphasized that the lamp would be in a vulnerable location and that frequent breakages, resulting in no backup lighting, would present a safety hazard. Several comments recommended a horizontal visibility angle of 80° (which corresponds to the maximum angle for rear lamps in the ISO recommendations and in the proposed ECE regulations) and a vertical visibility angle varying from 45° upward and downward to 45° upward only. Other comments recommended that the required visibility area be defined with reference to a vertical plane located 3 feet to rear of the vehicle, extending 3 feet on each side, and perpendicular to the longitudinal axis of the vehicle. The Administrator believes that the comments regarding vulnerability of the lamp have merit and recognizes that some compromise in the proposed visibility requirements is warranted. Accordingly, the requirements have been modified to exclude the area within 3 feet of the vehicle from the specified visibility area.

In addition, several editorial changes have been made for clarification.

Many comments submitted suggestions for revising the proposed requirements for lighting equipment that were determined to be beyond the scope of the notice, and will, therefore, be considered for future rule-making action.

In consideration of the foregoing, Part 255, Initial Federal Motor Vehicle Safety Standards, is amended, effective January 1, 1969, by superseding section 255.21, Motor Vehicle Safety Standard No. 108 (32 F.R. 2411), with a new Motor Vehicle Safety Standard No. 108 to read as set forth below.

(Secs. 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966; 15 U.S.C. 1392, 1407; and the delegation of authority of Mar. 31, 1967 (32 F.R. 5606), as amended Apr. 6, 1967 (32 F.R. 6495), July 27, 1967 (32 F.R. 11276), and Oct. 11, 1967 (32 F.R. 14277), and becomes effective Jan. 1, 1969)

The Administrator finds, for good cause shown, that an effective date later than 1 year from the date of this order is in the public interest, in that he proposes the issuance of other new and revised motor vehicle safety standards on or before January 31, 1968, with the same effective date of January 1, 1969, and that it is in the interest of motor vehicle safety that these standards become simultaneously effective to avoid disruption of the productive process and dilution of quality control.

Issued in Washington, D.C., on December 11, 1967.

LOWELL K. BRIDWELL,
Federal Highway Administrator.

MOTOR VEHICLE SAFETY STANDARD NO. 108

LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT—PASSENGER CARS, MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, BUSES, TRAILERS, AND MOTORCYCLES

S1. *Purpose and scope.* This standard specifies requirements for lamps, reflective devices, and associated equipment, for signalling and to enable safe operation in darkness and other conditions of reduced visibility.

S2. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers, and motorcycles, except pole trailers and trailer converter dollies.

S3. *Requirements.*

S3.1 *Equipment.*

S3.1.1 Except as provided in S3.1.1.1 through S3.1.1.11 vehicles shall be equipped with lamps, reflective devices, and associated equipment, in the numbers of units and designed to conform to the standards specified in—

(a) Table I for multipurpose passenger vehicles, trucks, trailers, and buses, of 80 or more inches overall width; or

(b) Table III for passenger cars; motorcycles; and multipurpose passenger vehicles, trucks, trailers, and buses, of less than 80 inches overall width.

S3.1.1.1 Truck tractors need not be equipped with turn-signal lamps mounted on the rear if the turn-signal lamps at or near the front are so constructed (double-faced) and so located that they are visible to overtaking passing drivers.

S3.1.1.2 Intermediate side-marker lamps and intermediate reflex reflectors are required only on vehicles of 80 or more inches overall width and 30 or more feet overall length.

S3.1.1.3 Reflective material conforming to Federal Specification L–S–300, "Sheeting and Tape, Reflective; Nonexposed Lens, Adhesive Backing", September 7, 1965, may be used in lieu of the side reflex reflectors, provided that this material, as used on the vehicle, meets the performance standards in Table I of SAE Standard J594c, "Reflex Reflectors", February 1965.

S3.1.1.4 Truck tractors of less than 80 inches overall width need not be equipped with more than two red Class A reflex reflectors (mounted on the rear), nor with any red rear side-marker devices.

S3.1.1.5 Passenger cars manufactured before January 1, 1970, shall be equipped with either two Class B red reflex reflectors or two Class A red reflex reflectors on the rear of the vehicle.

S3.1.1.6 Passenger cars; and multipurpose passenger vehicles, trucks, trailers, and buses, of less than 80 inches overall width manufactured before January 1, 1970, shall be equipped on each side of the vehicle, with at least one of the following combinations:

(a) 1 (red) Class A and 1 (amber) Class A reflex reflector;

(b) 1 red and 1 amber side-marker lamp;

(c) 1 red side-marker lamp and 1 (amber) Class A reflex reflector;

(d) 1 (red) Class A reflex reflector and 1 amber side-marker lamp.

S3.1.1.7 Passenger cars shall be equipped with turn-signal lamps that provide Class A photometric values and effective projected illuminated areas at least as large as that of Class B lamps. If a multiple compartment lamp or multiple lamps are used to meet this requirement, the effective projected illuminated area of each compartment or lamp shall be not less than that of a Class B lamp, and Class A photometric requirements shall be provided by one or a combination of the compartments or lamps.

S3.1.1.8 Passenger cars; and multipurpose passenger vehicles, trucks, trailers, and buses, of less than 80 inches overall width, and of less than 30 feet overall length, shall be equipped with side-marker lamps conforming to SAE Standard J592b, April 1964, except that the photometric minimum candlepower requirements specified therein may be met for inboard test points at a distance of 15 feet from the vehicle and on a vertical plane that is perpendicular to the longitudinal axis of the vehicle and located midway between the front and rear side-marker lamps.

S3.1.1.9 Boat trailers need not be equipped with front and rear clearance lamps located as specified in Table II, provided amber (to front) and red (to rear) clearance lamps are located on each side at or near the midpoint between front and rear of the trailer and indicate the extreme width of the trailer.

S3.1.1.10 Two or more license plate lamps and two or more backup lamps may be used to fulfill the requirements specified in Tables I and III for a single license plate lamp and a single backup lamp, respectively.

S3.1.1.11 Wedge base type bulb sockets conforming to SAE Recommended Practice J822, "Wedge Base Type Socket", April 1962, may be used in lieu of the bulb sockets specified by SAE Standard J567, "Bulb Sockets", August 1965.

S3.1.2 No additional lamp, reflective device, and associated equipment shall be installed if it impairs the effectiveness of the required equipment.

S3.1.3 *School buses.*

S3.1.3.1 School buses shall be equipped with a system of either:

(a) Four red signal lamps designed to conform to SAE Standard J887, "School Bus Red Signal Lamps", July 1964, and four amber signal lamps designed to conform to that standard, except for color and except the candlepower requirement shall be 2½ times that specified; or

(b) Four red signal lamps designed to conform to SAE Standard J887, "School Bus Red Signal Lamps", July 1964.

S3.1.3.2 The red and amber signal lamp system specified in S3.1.3.1(a) shall be installed in accordance with SAE Standard J887, July 1964, except that:

(a) An amber signal lamp shall be located near each red signal lamp, at the same level, but closer to the vertical centerline of the bus; and

(b) The system of red and amber signal lamps shall be wired so that:

(1) The amber lamps are energized manually; and

(2) The red signal lamps are automatically energized, and the amber signal lamps are automatically deenergized, when the bus entrance door is opened.

S3.1.3.3 The red signal lamp system specified in S3.1.3.1(b) shall be installed in accordance with SAE Standard J887, July 1964.

S3.2 *Location of lamps and reflectors.*

S3.2.1 Except as provided in S3.2.1.1 through S3.2.1.3, lamps, reflective devices and associated equipment required by S3.1 shall be installed in accordance with:

(a) Table II for multipurpose passenger vehicles, trucks, trailers, and buses, of 80 or more inches overall width; or

(b) Table IV for passenger cars; motorcycles; and multipurpose passenger vehicles, trucks, trailers, and buses of less than 80 inches overall width.

S3.2.1.1 On tractor trailer combination vehicles of 80 or more inches overall width, the requirement that intermediate side reflex reflectors and intermediate side-marker lamps be located at or near the midpoint between the forward and aft side reflex reflectors and forward and aft side-marker lamps, respectively, applies only to the trailer.

S3.2.1.2 On truck tractors, the red rear reflex reflectors may be mounted on the back of the cab.

S3.2.1.3 The visibility provision for a backup lamp may be fulfilled by two or more lamps functioning as a system.

S3.2.1.4 On trailers, the amber front side reflex reflectors and amber front side-marker lamps may be located as far forward as practicable exclusive of the trailer tongue.

S3.3 *Lamp combinations and equipment combinations.* Two or more lamps, reflective devices, and items of associated equipment may be combined if the requirements for each lamp, reflective device, and item of associated equipment are met, except that—

(a) No turn-signal lamp may be combined optically with any lamp (other than a stop lamp) that produces more than one-fifth the light intensity of the turn-signal lamp at test points of H–V, H–5L, H–5R, and 5U–V, nor more than one-third the intensity at any other test point on or above the horizontal.

(b) No turn-signal lamp may be combined optically with a stop lamp unless the stop lamp is extinguished when the turn-signal is flashing; and

(c) No clearance lamp may be combined optically with any taillamp or identification lamp on multipurpose passenger vehicles, trucks, trailers, and buses, of 80 or more inches overall width.

S3.4 *Special wiring requirements.*

S3.4.1 A means for switching between lower and upper headlamp beams shall be provided in accordance with SAE Recommended Practice J564a, "Headlamp Beam Switching", April 1964, or with SAE Recommended Practice J565a, "Semiautomatic Headlamp Beam Switching Devices", April 1964.

S3.4.2 A means for indicating to the driver when the upper beams of headlamps are on shall be provided in accordance with SAE Recommended Practice J564a, April 1964, except that the signal color need not be red.

S3.4.3 As a minimum the taillamps shall be illuminated when the headlamps are illuminated, except when the headlamps are being flashed.

S3.4.4 Except as provided in S3.4.4.1 through S3.4.4.3, stoplamps shall be actuated upon application of any service or emergency brakes.

S3.4.4.1 Stoplamps need not be actuated upon application of the parking brake. If the emergency brake system is used also as a parking brake, the stop-

lamp need not be actuated when the vehicle is parked.

S3.4.4.2 Stoplamps on a towing vehicle need not be actuated upon application of brakes to the towed vehicle only.

S3.4.4.3 Stoplamps on a towed vehicle need not be actuated if the towed vehicle becomes separated from the towing vehicle.

S3.4.5 The vehicular hazard warning signal operating unit shall operate independently of the ignition or equivalent switch, and when energized, cause all turn-signal lamps to flash simultaneously.

S3.4.6 On all vehicles required to be equipped with a backup lamp by this standard, the backup lamp shall be illuminated when the ignition or equivalent switch is energized and reverse gear is engaged.

S3.4.7 Except on vehicles using variable load flashers, a means for indicating to the driver that the turn-signal system is energized shall be provided in accordance with SAE Standard J588d, "Turn-Signal Lamps", June 1966.

S3.5 *Lighting display.* When energized, each lamp specified in Tables I and III shall, in normal operation, be steady-burning except turn-signal lamps and hazard warning signal lamps, which shall flash. However, normally steady-burning lamps may be capable of being individually flashed for signaling purposes.

TABLE I—EQUIPMENT

MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, TRAILERS, AND BUSES, OF 80 OR MORE INCHES OVERALL WIDTH

Item	Number and color in accordance with Society of Automotive Engineers Standard J578a, April 1965 required on—			In accordance with SAE standard or recommended practice
	Multipurpose passenger vehicles, trucks (other than truck tractors), and buses	Trailers	Truck tractors	
Headlamps	2 white, 7-inch, Type 2 headlamp units; or 2 white, 5¾-inch, Type 1 headlamp units and 2 white, 5¾-inch, Type 2 headlamp units.		Same as trucks and buses.	J580a, June 1966, and J579a, August 1965.
Taillamps	2 red	2 red	2 red	J585c, June 1966.
Stop lamps	2 red or amber	2 red or amber	2 red or amber	J586b, June 1966.
License plate lamp	1 white	1 white	1 white	J587b, April 1964.
Reflex reflectors	4 Class A red; 2 Class A amber.	4 Class A red; 2 Class A amber.	2 Class A red (on rear); 2 Class A amber.	J594c, February 1965.
Side-marker lamps	2 red; 2 amber	2 red; 2 amber	2 amber	J592b, April 1964.
Backup lamp	1 white		1 white	J593b, May 1966.
Turn-signal lamps	2 Class A red or amber; 2 Class A amber.	2 Class A red or amber.	2 Class A red or amber; 2 Class A amber.	J588d, June 1966.
Turn-signal operating unit.	1		1	J589, April 1964.
Turn-signal flasher	1		1	J590b, October 1965.
Vehicular hazard warning signal operating unit.	1		1	J910, January 1966.
Vehicular hazard warning signal flasher.	1		1	J945, February 1966.
Identification lamps.	3 amber and 3 red	3 red	3 amber	J592b, April 1964.
Clearance lamps	2 amber and 2 red	2 amber and 2 red	2 amber	J592b, April 1964.
Intermediate side-marker lamps.	2 amber	2 amber		J592b, April 1964.
Intermediate reflex reflectors.	2 Class A amber	2 Class A amber		J594c, February 1965.

TABLE II—LOCATION OF EQUIPMENT

MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, TRAILERS, AND BUSES, OF 80 OR MORE INCHES OVERALL WIDTH

Item	Location on—			Height above road surface measured from center of item on vehicle at curb weight
	Multipurpose passenger vehicles, trucks (other than truck tractors), and buses	Trailers	Truck tractors	
Headlamps	Type 1 headlamps at the same height, 1 on each side of the vertical centerline; Type 2 headlamps at the same height, 1 on each side of the vertical centerline, as far apart as practicable.		Same as trucks and buses.	Not less than 24 inches, nor more than 54 inches.
Taillamps	On the rear, 1 on each side of the vertical centerline, at the same level, and as far apart as practicable.	On the rear, 1 on each side of the vertical centerline, at the same level, and as far apart as practicable.	On the rear, 1 on each side of the vertical centerline, at the same level, and as far apart as practicable.	Not less than 15 inches, nor more than 72 inches.
Stop lamps	On the rear, 1 on each side of the vertical centerline, at the same level, and as far apart as practicable.	On the rear, 1 on each side of the vertical centerline, at the same level, and as far apart as practicable.	On the rear, 1 on each side of the vertical centerline, at the same level, and as far apart as practicable.	Not less than 15 inches, nor more than 72 inches.
License plate lamp	At rear license plate	At rear license plate	At rear license plate.	
Reflex reflectors	2 red—on rear, 1 on each side of the vertical centerline, as far apart as practicable and at the same level. 2 red—on sides, 1 on each side as far aft as practicable. 2 amber—on sides, 1 on each side as far forward as practicable.	2 red—on rear, 1 on each side of the vertical centerline, as far apart as practicable and at the same level. 2 red—on sides, 1 on each side as far aft as practicable. 2 amber—on sides, 1 on each side as far forward as practicable.	2 red—on rear, 1 on each side of the vertical centerline, as far apart as practicable and at the same level.[1] 2 amber—on sides, 1 on each side as far forward as practicable.	Not less than 15 inches nor more than 60 inches.
Side-marker lamps	On each side: 1 red lamp as far to the rear as practicable and 1 amber lamp as far forward as practicable.	On each side: 1 red lamp as far to the rear as practicable and 1 amber lamp as far forward as practicable.	On each side: 1 amber lamp as far forward as practicable.	Not less than 15 inches.

See footnotes at end of table.

TABLE II—LOCATION OF EQUIPMENT

MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, TRAILERS, AND BUSES, OF 80 OR MORE INCHES OVERALL WIDTH—con.

Item	Location on—			Height above road surface measured from center of item on vehicle at curb weight
	Multipurpose passenger vehicles, trucks (other than truck tractors), and buses	Trailers	Truck tractors	
Backup lamp	On rear, so that the optical center of the lens surface is visible from any eye point elevation from 2 feet to 6 feet above the horizontal plane on which the vehicle is standing, and from any position in the area rearward of a vertical plane, perpendicular to the longitudinal axis of the vehicle 3 feet to the rear of the vehicle, and extending 3 feet beyond each side of the vehicle.	----------	On rear, so that the optical center of the lens surface is visible from any eye point elevation from 2 feet to 6 feet above the horizontal plane on which the vehicle is standing, and from any position in the area rearward of a vertical plane, perpendicular to the longitudinal axis of the vehicle 3 feet to the rear of the vehicle, and extending 3 feet beyond each side of the vehicle.	
Turn-signal lamps	At or near the front: 1 amber on each side of the vertical centerline, at the same level, and as far apart as practicable. On rear: 1 red or amber on each side of the vertical centerline, at the same level, and as far apart as practicable.	On rear: 1 red or amber on each side of the vertical centerline, at the same level, and as far apart as practicable. ----------	At or near the front: 1 amber on each side of the vertical centerline, at the same level, and as far apart as practicable. On rear: 1 red or amber on each side of the vertical centerline, at the same level, and as far apart as practicable.	Not less than 15 inches.
Identification lamps	On front and rear: 3 lamps, amber in front red in rear, grouped in a horizontal row, with lamp centers spaced not less than 6 inches, nor more than 12 inches, apart and mounted as close as practicable to the vertical centerline.	On rear: 3 red lamps grouped in a horizontal row with lamp centers spaced not less than 6 inches, nor more than 12 inches apart and mounted as close as practicable to the vertical centerline.	On front: 3 amber lamps grouped in a horizontal row with lamp centers spaced not less than 6 inches, nor more than 12 inches, apart and mounted as close as practicable to the vertical centerline.	On front only: No part of the lamps or mountings may extend below the top of the vehicle's windshield.
Clearance lamps	On front and rear: 1 amber lamp in front, 1 red lamp in rear, as near as practicable to the upper left and right extreme edges of the vehicle. When the rear identification lamps are mounted at the extreme height of the vehicle, rear clearance lamps may be mounted at optional heights.	On front and rear: 1 amber lamp in front, 1 red lamp in rear, as near as practicable to the upper left and right extreme edges of the vehicle. When the rear identification lamps are mounted at the extreme height of the vehicle, rear clearance lamps may be mounted at optional heights.	On front: 1 amber lamp as near as practicable to the upper left and right extreme edges of the vehicle.	

[1] See S3.2.1.2.

TABLE II—LOCATION OF EQUIPMENT

MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, TRAILERS, AND BUSES, OF 80 OR MORE INCHES OVERALL WIDTH—con.

Item	Location on—			Height above road surface measured from center of item on vehicle at curb weight
	Multipurpose passenger vehicles, trucks (other than truck tractors), and buses	Trailers	Truck tractors	
Intermediate side-marker lamps.	On each side: 1 amber lamp located at or near the midpoint between the forward and aft side marker lamps.	On each side: 1 amber lamp located at or near the midpoint between the forward and aft side marker lamps.	----------	Not less than 15 inches.
Intermediate side reflex reflectors.	On each side: 1 amber located at or near the midpoint between the forward and aft side reflex reflectors.	On each side: 1 amber located at or near the midpoint between the forward and aft side reflex reflectors.	----------	Not less than 15 inches nor more than 60 inches.

TABLE III—EQUIPMENT

PASSENGER CARS; MOTORCYCLES; AND MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, TRAILERS, AND BUSES, OF LESS THAN 80 INCHES OVERALL WIDTH

Item	Number and color in accordance with Society of Automotive Engineers Standard J578a, April 1965 required on—			In accordance with SAE standard or recommended practice
	Passenger cars, multipurpose passenger vehicles, trucks, and buses	Trailers	Motorcycles	
Headlamps	2 white, 7-inch, Type 2 headlamp units; or 2 white, 5¾-inch, Type 1 headlamp units and 2 white, 5¾-inch, Type 2 headlamp units.	----------	----------	J580a, June 1966, and J579a, August 1965.
	----------	----------	1 white	J584, April 1964.
Taillamps	2 red	2 red	1 red	J585c, June 1966.
Stop lamps	2 red or amber	2 red or amber	1 red or amber	J586b, June 1966.
License plate lamp	1 white	1 white	1 white	J587b, April 1964.
Parking lamps	2 amber	----------	----------	J592b, April 1964.
Reflex Reflectors	4 Class A red; 2 Class A amber.[1]	4 Class A red; 2 Class A amber.[1]	3 Class B red; 2 Class B amber.	J594c, February 1965.
Side-marker lamps	2 red; 2 amber [2]	2 red; 2 amber [2]	----------	J592b, April 1964.
Backup lamp	1 white	----------	----------	J593b, May 1966.
Turn-signal lamps	2 Class A red or amber; 2 Class A amber.[3]	2 Class A red or amber.	----------	J588d, June 1966.
Turn-signal operating unit.	1	----------	----------	J590, April 1964.
Turn-signal flasher	1	----------	----------	J590b, October 1966.

TABLE III—EQUIPMENT—Continued

Item	Number and color in accordance with Society of Automotive Engineers Standard J578a, April 1965 required on—			In accordance with SAE standard or recommended practice
	Passenger cars, multipurpose passenger vehicles, trucks, and buses	Trailers	Motorcycles	
Vehicular hazard warning signal operating unit.	1			J910, January 1966.
Vehicular hazard warning signal flasher.	1			J945, February 1966.

[1] See S3.1.1.5 and S3.1.1.6.
[2] See S3.1.1.6.
[3] See S3.1.1.7.

TABLE IV—EQUIPMENT LOCATION

PASSENGER CARS; MOTORCYCLES; AND MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, TRAILERS, AND BUSES, OF LESS THAN 80 INCHES OVERALL WIDTH

Item	Location on—		Height above road surface measured from center of item on vehicle at curb weight
	Passenger cars, multipurpose passenger vehicles, trucks, trailers, and buses	Motorcycles	
Col. 1	Col. 2	Col. 3	Col. 4
Headlamps	Type 1 headlamps at the same height, 1 on each side of the vertical centerline; Type 2 headlamps at the same height, 1 on each side of the vertical centerline, as far apart as practicable.	On front centerline, except that, if two lamps are used, they may be symmetrically disposed about the front centerline.	Not less than 24 inches, nor more than 54 inches.
Taillamps	On the rear, 1 on each side of the vertical centerline, at the same level, and as far apart as practicable.	On rear centerline except that, if two lamps are used, they may be symmetrically disposed about the rear centerline.	Not less than 15 inches, nor more than 72 inches.
Stop lamps	On the rear, 1 on each side of the vertical centerline, at the same level, and as far apart as practicable.	On rear centerline except that, if two lamps are used, they may be symmetrically disposed about the rear centerline.	Not less than 15 inches, nor more than 72 inches.
License plate lamp	At rear license plate.	At rear license plate.	
Reflex reflectors	2 red—on rear, 1 on each side of the vertical centerline as far apart as practicable and at the same level.[1] 2 red—1 on each side as far aft as practicable.[2] 2 amber—1 on each side as far forward as practicable.[3]	1 red on rear centerline except that, if two reflectors are used on the rear, they may be symmetrically disposed about the centerline. 2 red—1 on each side, as far aft as practicable. 2 amber—1 on each side as far forward as practicable.	Not less than 15 inches nor more than 60 inches.
Backup lamp	On rear, so that the optical center of the lens surface is visible from any eye point elevation from 2 feet to 6 feet above the horizontal plane on which the vehicle is standing, and from any position in the area rearward of a vertical plane, perpendicular to the longitudinal axis of the vehicle 3 feet to the rear of the vehicle, and extending 3 feet beyond each side of the vehicle.		
Turn-signal lamps [4]	At or near the front: 1 amber on each side of the vertical centerline, at the same level, and as far apart as practicable.[4] On rear: 1 red or amber on each side of the vertical centerline, at the same level, and as far apart as practicable.[4]		Not less than 15 inches.
Side-marker lamps	On each side: 1 red lamp as far to the rear as practicable and 1 amber lamp as far forward as practicable.[3]		Not less than 15 inches.

[1] See S3.1.1.5.
[2] See S3.1.1.6.
[3] Front turn signal lamps not required for trailers.
[4] See S3.1.1.7.

[F.R. Doc. 67-14536; Filed, Dec. 15, 1967; 8:45 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

[T.D. 6941]

SUBCHAPTER A—INCOME TAX

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

SUBCHAPTER C—EMPLOYMENT TAXES

PART 31—EMPLOYMENT TAXES; APPLICABLE ON AND AFTER JANUARY 1, 1955

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

PART 46—REGULATIONS RELATING TO MISCELLANEOUS EXCISE TAXES PAYABLE BY RETURN

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

PART 49—FACILITIES AND SERVICES EXCISE TAXES

Deposit of Certain Taxes

On November 18, 1967, notice of proposed rule making with respect to the revision of rules for the deposit of certain income, employment and excise taxes with Government depositaries was published in the FEDERAL REGISTER (32 F.R. 15879). After consideration of all such revelant matter as was presented by interested persons, the amendments of the regulations (26 CFR Parts 1, 31, 46, 48, 49) so proposed are hereby adopted.

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

Approved: December 13, 1967.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

In order to revise the rules for the deposit of certain income, employment, and excise taxes, the following regulations are amended as follows:

PARAGRAPH 1. Paragraph (a)(1) of § 1.1461-3 is amended to read as follows:

§ 1.1461-3 Payment of withheld tax.

(a) *Payments of tax*—(1) *Quarterly payments.* Every withholding agent who, pursuant to chapter 3 of the Code, withholds tax during any calendar quarter beginning after December 31, 1966, shall, to the extent such amounts have not been deposited pursuant to § 1.6302-2 with a Federal Reserve bank or an authorized commercial bank, pay such withheld tax to the Director of International Operations, Internal Revenue Service, Washington, D.C. 20225, on or before the last day of the first calendar month following the close of the calendar quarter. Any amounts required to be paid to the Director of International Operations pursuant to this subparagraph shall be made with quarterly transmittal Form 4277, even though the withholding agent

has made no deposits pursuant to paragraph (a) of § 1.6302–2 and has no validated depositary receipts to accompany that transmittal form.

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PAR. 2. Paragraph (a) of § 1.6302–1 is amended to read as follows:

§ 1.6302–1 Use of Government depositaries in connection with corporation income and estimated income taxes.

(a) *Requirement.* For taxable years ending on or after December 31, 1967, a corporation (other than a nonresident foreign corporation and, for taxable years ending before December 31, 1968, other than a resident foreign corporation) shall deposit with a Federal Reserve bank all payments of tax imposed by Chapter 1 of the Code (including any payments of estimated tax) on or before the date otherwise prescribed for paying such tax.

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PAR. 3. Section 1.6302–2 is amended by revising subparagraphs (1) and (2) of paragraph (a) and by revising paragraphs (b), (c), and (g) to read as follows:

§ 1.6302–2 Use of Government depositaries for payment of tax withheld on nonresident aliens and foreign corporations.

(a) *Time for making deposits*—(1) *Monthly deposits.* Except as provided in subparagraph (2) of this paragraph, every withholding agent who, pursuant to chapter 3 of the Code, withholds during any calendar month other than the last month of a calendar quarter more than $100 in the aggregate shall deposit such aggregate amount with a Federal Reserve bank within 15 days after the close of such calendar month, and who so withholds during the last calendar month of any calendar quarter occurring in a year after 1967 more than $100 in the aggregate shall so deposit such aggregate amount on or before the last day of the first calendar month following the close of the calendar quarter.

(2) *Semimonthly deposits.* Every withholding agent, who, pursuant to chapter 3 of the Code, withholds during any calendar month of a calendar quarter more than $2,500 in the aggregate shall deposit any tax, which is required to be withheld under such chapter during any semimonthly period of the next succeeding calendar quarter, in a Federal Reserve bank within 3 banking days after the close of the semimonthly period during which the amounts to which such withholding relates are paid. For purposes of this subparagraph, the term "semimonthly period" means the first 15 days of a calendar month or the part of a calendar month following the 15th day of such month. A withholding agent will be considered to have complied with the deposit requirements of this subparagraph in respect of any semimonthly period if (i) his deposit for such semimonthly period is made within the time otherwise prescribed, (ii) is not less than 90 percent of the aggregate amount of the tax required to be withheld under chapter 3 of the Code during such semimonthly period, and (iii), if such semimonthly period occurs in a calendar month other than the last month in a calendar quarter, he deposits, within 3 banking days after the 15th day of the month following such calendar month, the balance of any amount withheld during such calendar month and not previously deposited, or if such semimonthly period occurs in the last calendar month in a calendar quarter occurring in a year after 1967, he deposits, on or before the last day of the first calendar month following the close of the calendar quarter, the balance of any amount withheld during such calendar month and not previously deposited. In a case where an adjustment in the amount of a deposit for a semimonthly period is allowed pursuant to paragraph (b) of § 1.1461–4, the 90-percent requirement of subdivision (ii) of this subparagraph will be considered met if the deposit for such period is not less than 90 percent of the aggregate amount of tax required to be withheld during such semimonthly period (determined without regard to such adjustment), reduced by the amount of such adjustment. See paragraph (b) of § 1.1461–4 and example (2) thereunder. For determining the amount of tax required to be withheld under chapter 3 of the Code where there has been a reimbursement of overwithheld tax, see paragraph (a)(2) of § 1.1461–4.

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(b) *Depositary forms*—(1) *Remittances*—(i) *Deposits for 1967.* Each remittance of amounts required to be deposited by paragraph (a) of this section for 1967 only, shall be accompanied by a Federal Depositary Receipt (Form 450) which shall be prepared in accordance with the instructions applicable thereto. The withholding agent shall forward such remittance, together with such depositary receipt, to a Federal Reserve bank or, at his election to a commercial bank authorized in accordance with Treasury Department Circular No. 848, 31 CFR Part 213, to accept remittances of the taxes for transmission to a Federal Reserve bank. After the Federal Reserve bank has validated the depositary receipt, such depositary receipt will be returned to the withholding agent. For purposes of this subparagraph Form 450 and Treasury Department Circular No. 848 shall be deemed to apply to the tax required to be withheld under chapter 3 of the Code.

(ii) *Deposits for 1968 and subsequent years.* Each remittance of amounts required to be deposited by paragraph (a) of this section for years subsequent to 1967 shall be accompanied by a Federal Tax Deposit, Tax Withheld at Source on Nonresident Aliens, Foreign Corporations, Tax-Free Covenant Bonds, form (Form 512) which shall be prepared in accordance with the instructions applicable thereto. The remittance, together with Form 512, shall be forwarded to a Federal Reserve bank, or at the election of the withholding agent to a commercial bank authorized in accordance with Treasury Department Circular No. 1079, 31 CFR Part 214, to accept remittances of the tax for transmission to a Federal Reserve bank. The timeliness of the deposit will be determined by the date of receipt by a Federal Reserve bank or by the authorized commercial bank, whichever is earlier. Each withholding agent making deposits pursuant to this section shall report on the return for the period with respect to which such deposits are made information regarding such deposits in accordance with the instructions applicable to such return.

(2) *Quarterly transmission of depositary receipts for 1967.* For deposits for the year 1967 only, every withholding agent making deposits pursuant to subparagraph (1)(i) of this paragraph shall forward the validated depositary receipts (Form 450) to the Director of International Operations, Internal Revenue Service, Washington, D.C. 20225, on or before the last day of the first calendar month following the close of the calendar quarter during which the tax was withheld to which such receipts apply. The depositary receipts shall be forwarded with quarterly transmittal Form 4277, which shall be prepared in accordance with the instructions applicable thereto and shall identify the withholding agent for whose account such transmittal form is made. In order to secure a proper crediting of deposits or payments of tax for the account of a withholding agent against the tax liability of such withholding agent, the identification of the withholding agent on the quarterly transmittal Form 4277 must conform to the identification of the withholding agent on the annual return of tax on Form 1042 required by paragraph (b) of § 1.1461–2.

(3) *Voluntary deposits.* An amount of tax which is not required to be deposited may nevertheless be deposited if the withholding agent so desires. If such a voluntary deposit is made for 1967, the withholding agent shall make it in ample time to enable the Federal Reserve bank to return the validated receipt to the withholding agent so that it can be transmitted to the Internal Revenue Service in accordance with subparagraph (2) of this paragraph.

(4) *Separation of deposits.* A deposit required by paragraph (a) of this section for any period occurring in one calendar year shall be made separately from any deposit for any period occurring in another calendar year. In addition, a deposit required to be made by paragraph (a) of this section shall be made separately from a deposit required by any other section.

(5) *Multiple remittances.* A withholding agent may make one, or more than one, remittance of the amount required to be deposited if each remittance is accompanied by the applicable deposit form.

(6) *Time deemed paid.* In general, amounts deposited under this section shall be considered as paid on the last day prescribed for filing the return (Form 1042) in respect of such tax (determined without regard to any extension of time for filing such return), or at the time deposited, whichever is later. For purposes of section 6511 and the

regulations thereunder, relating to period of limitation on credit or refund, if an amount is so deposited prior to April 15th of a calendar year immediately succeeding the calendar year in which occurs the period for which such amount was so deposited, such amount shall be considered as paid on such April 15th.

(c) *Procurement of prescribed forms.* Copies of the applicable deposit form will so far as possible be furnished withholding agents. A withholding agent will not be excused from making a deposit, however, by the fact that no form has been furnished to it. A withholding agent not supplied with the proper form should make application therefor in ample time to make the required deposits within the time prescribed. The withholding agent may secure the form or additional forms by applying therefor and supplying its name, identification number, address, and the taxable period to which the deposits will relate. Copies of Form 450, for deposits for 1967 only, may be secured by application to the district director or to a Federal Reserve bank. The address of the withholding agent as entered on such form should be the address to which the receipt should be returned following validation by the Federal Reserve bank. Copies of Form 512, for deposits only for years subsequent to 1967, may be secured by application therefor to the district director or director of a service center.

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(g) *Effective date.* Except as otherwise provided, this section shall apply to tax required to be withheld under chapter 3 of the Code after 1966.

PAR. 4. Paragraph (a)(1) of § 31.6071(a)-1 is amended to read as follows:

§ 31.6071(a)-1 Time for filing returns and other documents.

(a) *Federal Insurance Contributions Act and income tax withheld from wages*—(1) *Quarterly or annual returns.* Except as provided in subparagraph (4) of this paragraph each return required to be made under § 31.6011(a)-1, in respect of the taxes imposed by the Federal Insurance Contributions Act, or required to be made under § 31.6011(a)-4, in respect of income tax withheld, shall be filed on or before the last day of the first calendar month following the period for which it is made. However, a return may be filed on or before the 10th day of the second calendar month following such period if timely deposits under section 6302(c) of the Code and the regulations thereunder have been made in full payment of such taxes due for the period. For the purpose of the preceding sentence, a deposit which is not required by such regulations in respect of the return period may be made on or before the last day of the first calendar month following the close of such period, and the timeliness of any deposit will be determined by the earliest date stamped on the applicable deposit form by an authorized commercial bank or by a Federal Reserve bank.

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PAR. 5. Paragraph (a) of § 31.6302(c)-1 is amended by revising subparagraphs (3) and (4) thereof to read as follows:

§ 31.6302(c)-1 Use of Government depositaries in connection with taxes under Federal Insurance Contributions Act and income tax withheld.

(a) *Requirement.* * * *

(3) *Depositary forms*—(i) *In general.* A deposit required to be made by an employer under subparagraph (1) of this paragraph shall be made separately from any deposit required to be made by him under subparagraph (2) of this paragraph. Similarly, a deposit required to be made by this section shall be made separately from a deposit required by any other section. An employer may make one, or more than one, remittance of the amount required to be deposited. However, a deposit for a period in one calendar quarter shall be made separately from any deposit for a period in another calendar quarter. An amount of tax which is not required to be deposited may nevertheless be deposited if the employer so desires.

(ii) *Deposits for 1967 and prior years.* Each remittance of amounts required to be deposited for periods prior to 1968 shall be accompanied by a Federal Depositary Receipt (Form 450) which shall be prepared in accordance with the instructions applicable thereto. The employer shall forward such remittance, together with such depositary receipt, to a Federal Reserve bank or, at his election, to a commercial bank authorized in accordance with Treasury Department Circular No. 848, 31 CFR Part 213, to accept remittances of the taxes for transmission to a Federal Reserve bank. After the Federal Reserve bank has validated the depositary receipt, such depositary receipt will be returned to the employer. Every employer making deposits pursuant to this section shall attach to his return for the period with respect to which such deposits are made, in part or in full payment of the taxes shown thereon, depositary receipts so validated, and shall pay the balance, if any, of the taxes due for such period. If a voluntary deposit for a period prior to 1968 is made, the employer shall make it in ample time to enable the Federal Reserve bank to return the validated receipt to the employer so that it can be attached to and filed with the employer's return.

(iii) *Deposits for 1968 and subsequent years.* Each remittance of amounts required to be deposited under subparagraph (1) of this paragraph for periods subsequent to 1967 shall be accompanied by a Federal Tax Deposit, Withheld Income and FICA Taxes, form (Form 501). Each remittance of amounts required to be deposited under subparagraph (2) of this paragraph for years subsequent to 1967 shall be accompanied by a Federal Tax Deposit, FICA Taxes (Employer and Employee Taxes) for Agricultural Workers, form (Form 511). Such forms shall be prepared in accordance with the instructions applicable thereto. The remittance, together with Form 501, or Form 511, as the case may be, shall be forwarded to a Federal Reserve bank or, at the election of the employer, to a commercial bank authorized in accordance with Treasury Department Circular No. 1079, 31 CFR Part 214, to accept remittances of the taxes for transmission to a Federal Reserve bank. The timeliness of the deposit will be determined by the date of receipt by a Federal Reserve bank or by the authorized commercial bank, whichever is earlier. Each employer making deposits pursuant to this section shall report on the return for the period with respect to which such deposits are made information regarding such deposits in accordance with the instructions applicable to such return and pay therewith (or deposit by the due date of such return) the balance, if any, of the taxes due for such period.

(iv) *Time deemed paid.* In general, amounts deposited under subdivision (iii) of this subparagraph shall be considered as paid on the last day prescribed for filing the return in respect of such tax (determined without regard to any extension of time for filing such return), or at the time deposited, whichever is later. For purposes of section 6511 and the regulations thereunder, relating to period of limitation on credit or refund, if an amount is so deposited prior to April 15th of a calendar year immediately succeeding the calendar year which contains the period for which such amount was so deposited, such amount shall be considered as paid on such April 15th.

(4) *Procurement of prescribed forms.* Copies of the applicable deposit form will so far as possible be furnished employers. An employer will not be excused from making a deposit, however, by the fact that no form has been furnished to it. An employer not supplied with the proper form should make application therefor in ample time to make the required deposits within the time prescribed. The employer may secure the form or additional forms by applying therefor and supplying his name, identification number, address, and the taxable period to which the deposits will relate. Copies of Form 450 for deposits for periods prior to 1968 may be secured by application to the district director or to a Federal Reserve bank. The address of the employer as entered on such form should be the address to which the receipt should be returned following validation by the Federal Reserve bank. Copies of Form 501 and Form 511 for deposits for periods subsequent to 1967 may be secured by application therefor to the district director or director of a service center.

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PAR. 6. Section 31.6302(c)-2 is amended by revising paragraphs (b) and (c) thereof to read as follows:

§ 31.6302(c)-2 Use of Government depositaries in connection with employee and employer taxes under Railroad Retirement Tax Act.

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(b) *Depositary forms*—(1) *In general.* A deposit required to be made by this section shall be made separately from a deposit required by any other section. An

employer may make one, or more than one remittance of the amount required to be deposited. An amount of tax which is not required to be deposited may nevertheless be deposited if the employer so desires. If the aggregate amount of the taxes deposited is in excess of the taxes shown on the return, a credit or refund may be obtained; and in the event the excess is applied as a credit against such taxes for a subsequent return period, the employer shall reduce the amount of one or more of the deposits otherwise required for such subsequent return period by the amount of such credit.

(2) *Deposits for 1967 and prior years.* Each remittance of amounts required to be deposited for periods prior to 1968 shall be accompanied by a Railroad Retirement Depositary Receipt (Form 515) which shall be prepared in accordance with the instructions applicable thereto. The employer shall forward such remittance, together with such depositary receipt, to a Federal Reserve bank or, at his election, to a commercial bank authorized in accordance with Treasury Department Circular No. 848, 31 CFR Part 213, to accept remittances of the taxes for transmission to a Federal Reserve bank. After the Federal Reserve bank has validated the depositary receipt, such depositary receipt will be returned to the employer. Every employer making deposits pursuant to this section shall attach to his return for the period with respect to which such deposits are made, in part or in full payment of the taxes shown thereon, depositary receipts so validated, and shall pay the balance, if any, of the taxes due for such period. If a voluntary deposit for a period prior to 1968 is made, the employer shall make it in ample time to enable the Federal Reserve bank to return the validated receipt to the employer so that it can be attached to and filed with the employer's return.

(3) *Deposits for 1968 and subsequent years.* Each remittance of amounts required to be deposited for periods subsequent to 1967 shall be accompanied by a Federal Tax Deposit, Railroad Retirement Taxes, form (Form 507) which shall be prepared in accordance with the instructions applicable thereto. The remittance, together with Form 507, shall be forwarded to a Federal Reserve bank or, at the election of the employer, to a commercial bank authorized in accordance with Treasury Department Circular No. 1079, 31 CFR Part 214, to accept remittances of the taxes for transmission to a Federal Reserve bank. The timeliness of the deposit will be determined by the date of receipt by a Federal Reserve bank or by the authorized commercial bank, whichever is earlier. Each employer making deposits pursuant to this section shall report on the return for the period with respect to which such deposits are made information regarding such deposits in accordance with the instructions applicable to such return and pay therewith (or deposit by the due date of such return) the balance, if any, of the taxes due for such period.

(4) *Time deemed paid.* In general, amounts deposited under subparagraph (3) of this paragraph shall be considered as paid on the last day prescribed for filing the return in respect of such tax (determined without regard to any extension of time for filing such return), or at the time deposited, whichever is later. For purposes of section 6511 and the regulations thereunder, relating to period of limitation on credit or refund, if an amount is so deposited prior to April 15th of a calendar year immediately succeeding the calendar year in which occurs the period for which such amount was so deposited, such amount shall be considered as paid on such April 15th.

(c) *Procurement of prescribed forms.* Copies of the applicable deposit form will so far as possible be furnished employers. An employer will not be excused from making a deposit, however, by the fact that no form has been furnished to it. An employer not supplied with the proper form should make application therefor in ample time to make the required deposits within the time prescribed. The employer may secure the form or additional forms by applying therefor and supplying his name, identification number, address and the taxable period to which the deposits will relate. Copies of Form 515 for periods prior to 1968 may be secured by application to the district director or to a Federal Reserve bank. The address of the employer as entered on such form should be the address to which the receipt should be returned following validation by the Federal Reserve bank. Copies of Form 507 for periods subsequent to 1967 may be secured by application therefor to the district director or director of a service center.

PAR. 7. Paragraph (a) of § 46.6071(a)–1 is amended to read as follows:

§ 46.6071(a)–1 Time for filing returns.

(a) *Quarterly returns.* Each return required to be made under paragraph (a) of § 46.6011(a)–1 for a return period of not less than one calendar quarter shall be filed on or before the last day of the first calendar month following the period for which it is made. However, a return may be filed on or before the 10th day of the second calendar month following such period if timely deposits under section 6302(c) of the Code and the regulations thereunder have been made in full payment of such taxes due for the period. For the purpose of the preceding sentence, a deposit which is not required by such regulations in respect of the return period may be made on or before the last day of the first calendar month following the close of such period, and the timeliness of any deposit will be determined by the earliest date stamped on the applicable deposit form by an authorized commercial bank or by a Federal Reserve bank.

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PAR. 8. Section 46.6302(c)–1 is amended by deleting subparagraph (2) of paragraph (a), revising paragraph (c) and by adding at the end thereof a new paragraph (d). The revised and added paragraphs read as follows:

§ 46.6302(c)–1 Use of Government depositaries.

* * * * *

(c) *Depositary forms—(1) In general.* A person required to make deposits by paragraph (a) of this section may make one, or more than one, remittance of the amount required to be deposited. An amount of such tax which is not required to be deposited may nevertheless be deposited if the person liable for the tax so desires.

(2) *Deposits for 1967 and prior years.* Each remittance of amounts required to be deposited for periods prior to 1968 shall be accompanied by a Depositary Receipt for Federal Excise Taxes (Form 537) which shall be prepared in accordance with the instructions applicable thereto. The person so required to deposit shall forward such remittance, together with such depositary receipt, to a Federal Reserve bank or, at his election, to a commercial bank authorized in accordance with Treasury Department Circular No. 848, 31 CFR Part 213, to accept remittances of the taxes for transmission to a Federal Reserve bank. After the Federal Reserve bank has validated the depositary receipt, such depositary receipt will be returned to the person. Every person making deposits pursuant to this section shall attach to his return for the period with respect to which such deposits are made, in part or in full payment of the taxes shown thereon, depositary receipts so validated, and shall pay the balance, if any, of the taxes due for such period. If a voluntary deposit for a period prior to 1968 is made, the person liable for the tax shall make it in ample time to enable the Federal Reserve bank to return the validated receipt to the person so that it can be attached to and filed with the person's return.

(3) *Deposits for 1968 and subsequent years.* Each remittance of amounts required to be deposited for periods subsequent to 1967 shall be accompanied by a Federal Tax Deposit, Excise Taxes, form (Form 504) which shall be prepared in accordance with the instructions applicable thereto. The remittance, together with Form 504, shall be forwarded to a Federal Reserve bank or, at the election of the person making the remittance, forwarded to a commercial bank authorized in accordance with Treasury Department Circular No. 1079, 31 CFR Part 214, to accept remittances of the taxes for transmission to a Federal Reserve bank. The timeliness of the deposit will be determined by the date of receipt by a Federal Reserve bank or by the authorized commercial bank, whichever is earlier. Each person making deposits pursuant to this section shall report on the return for the period with respect to which such deposits are made information regarding such deposits in accordance with the instructions applicable to such return and pay therewith (or deposit by the due date of such return) the balance, if any, of the taxes due for such period.

(4) *Time deemed paid.* Amounts deposited under subparagraph (3) of this paragraph shall be considered as paid

on the last day prescribed for filing the return in respect of such tax (determined without regard to any extension of time for filing such return), or at the time deposited, whichever is later.

(d) *Procurement of prescribed forms.* Copies of the applicable deposit form will so far as possible be furnished persons required to deposit. Such a person will not be excused from making a deposit, however, by the fact that no form has been furnished to him. A person not supplied with the proper form should make application therefor in ample time to make the required deposits within the time prescribed. The person may secure the forms or additional forms by applying therefor and supplying his name, identification number, address, and the taxable period to which the deposits will relate. Copies of Form 537 for deposits for periods prior to 1968 may be secured by application to the district director or to a Federal Reserve bank. The address of the person as entered on such form should be the address to which the receipt should be returned following validation by the Federal Reserve bank. Copies of Form 504 for deposits for periods subsequent to 1967 may be secured by application therefor to the district director or director of a service center.

PAR. 9. Paragraph (a) of § 48.6071(a)–1 is amended to read as follows:

§ 48.6071(a)–1 Time for filing returns.

(a) *Quarterly returns.* Each return required to be made under paragraph (a) of § 48.6011(a)–1 for a return period of not less than one calendar quarter shall be filed on or before the last day of the first calendar month following the period for which it is made. However, a return may be filed on or before the 10th day of the second calendar month following such period if timely deposits under section 6302(c) of the Code and the regulations thereunder have been made in full payment of such taxes due for the period. For the purpose of the preceding sentence, a deposit which is not required by such regulations in respect of the return period may be made on or before the last day of the first calendar month following the close of such period, and the timeliness of any deposit will be determined by the earliest date stamped on the applicable deposit form by an authorized commercial bank or by a Federal Reserve bank.

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PAR. 10. Section 48.6302(c)–1 is amended by deleting subparagraph (2) of paragraph (a), revising paragraph (c) and adding at the end thereof a new paragraph (d). The revised and added paragraphs read as follows:

§ 48.6302(c)–1 Use of Government depositaries.

* * * * *

(c) *Depositary forms—(1) In general.* A person required to make deposits by paragraph (a) of this section may make one, or more than one, remittance of the amount required to be deposited. An amount of such tax which is not required to be deposited may nevertheless be deposited if the person liable for the tax so desires.

(2) *Deposits for 1967 and prior years.* Each remittance of amounts required to be deposited for periods prior to 1968 shall be accompanied by a Depositary Receipt for Federal Excise Taxes (Form 537) which shall be prepared in accordance with the instructions applicable thereto. The person so required to deposit shall forward such remittance, together with such depositary receipt, to a Federal Reserve bank or, at his election, to a commercial bank authorized in accordance with Treasury Department Circular No. 848, 31 CFR Part 213, to accept remittances of the taxes for transmission to a Federal Reserve bank. After the Federal Reserve bank has validated the depositary receipt, such depositary receipt will be returned to the person. Every person making deposits pursuant to this section shall attach to his return for the period with respect to which such deposits are made, in part or in full payment of the taxes shown thereon, depositary receipts so validated, and shall pay the balance, if any, of the taxes due for such period. If a voluntary deposit for a period prior to 1968 is made, the person liable for the tax shall make it in ample time to enable the Federal Reserve bank to return the validated receipt to the person so that it can be attached to and filed with the person's return.

(3) *Deposits for 1968 and subsequent years.* Each remittance of amounts required to be deposited for periods subsequent to 1967 shall be accompanied by a Federal Tax Deposit, Excise Taxes, form (Form 504) which shall be prepared in accordance with the instructions applicable thereto. The remittance, together with Form 504, shall be forwarded to a Federal Reserve bank or, at the election of the person making the remittance, to a commercial bank authorized in accordance with Treasury Department Circular No. 1079, 31 CFR Part 214, to accept remittances of the taxes for transmission to a Federal Reserve bank. The timeliness of the deposit will be determined by the date of receipt by a Federal Reserve bank or by the authorized commercial bank, whichever is earlier. Each person making deposits pursuant to this section shall report on the return for the period with respect to which such deposits are made information regarding such deposits in accordance with the instructions applicable to such return and pay therewith (or deposit by the due date of such return) the balance, if any, of the taxes due for such period.

(4) *Time deemed paid.* Amounts deposited under subparagraph (3) of this paragraph shall be considered as paid on the last day prescribed for filing the return in respect of such tax (determined without regard to any extension of time for filing such return), or at the time deposited, whichever is later.

(d) *Procurement of prescribed forms.* Copies of the applicable deposit form will so far as possible be furnished persons required to deposit. Such a person will not be excused from making a deposit, however, by the fact that no form has been furnished to him. A person not supplied with the proper form should make application therefor in ample time to make the required deposits within the time prescribed. The person may secure the form or additional forms by applying therefor and supplying his name, identification number, address and the taxable period to which the deposits will relate. Copies of Form 537 for deposits for periods prior to 1968 may be secured by application to the district director or to a Federal Reserve bank. The address of the person as entered on such form should be the address to which the receipt should be returned following validation by the Federal Reserve bank. Copies of Form 504 for deposits for periods subsequent to 1967 may be secured by application therefor to the district director or director of a service center.

PAR. 11. Section 49.6302(c)–1 is amended by deleting subparagraph (2) of paragraph (a), and revising paragraph (c). The revised paragraph (c) reads as follows:

§ 49.6302(c)–1 Use of Government depositaries.

* * * * *

(c) *Depositary forms—(1) In general.* A person required to make deposits by paragraph (a) of this section may make one, or more than one, remittance of the amount required to be deposited. An amount of such tax which is not required to be deposited may nevertheless be deposited if the person liable for the tax so desires.

(2) *Deposits for 1967 and prior years.* Each remittance of amounts required to be deposited for periods prior to 1968 shall be accompanied by a Depositary Receipt for Federal Excise Taxes (Form 537) which shall be prepared in accordance with the instructions applicable thereto. The person so required to deposit shall forward such remittance, together with such depositary receipt, to a Federal Reserve bank or, at his election, to a commercial bank authorized in accordance with Treasury Department Circular No. 848, 31 CFR Part 213, to accept remittances of the taxes for transmission to a Federal Reserve bank. After the Federal Reserve bank has validated the depositary receipt, such depositary receipt will be returned to the person. Every person making deposits pursuant to this section shall attach to his return for the period with respect to which such deposits are made, in part on in full payment of the taxes shown thereon, depositary receipts so validated, and shall pay the balance, if any, of the taxes due for such period. If a voluntary deposit for a period prior to 1968 is made, the person liable for the tax shall make it in ample time to enable the Federal Reserve bank to return the validated receipt to the person so that it can be attached to and filed with the person's return.

(3) *Deposits for 1968 and subsequent years.* Each remittance of amounts required to be deposited for periods subsequent to 1967 shall be accompanied by a Federal Tax Deposit, Excise Taxes, form (Form 504) which shall be prepared in

accordance with the instructions applicable thereto. The remittance, together with Form 504, shall be forwarded to a Federal Reserve bank or, at the election of the person making the remittance to a commercial bank authorized in accordance with Treasury Department Circular No. 1079, 31 CFR Part 214, to accept remittances of the taxes for transmission to a Federal Reserve bank. The timeliness of the deposit will be determined by the date of receipt by a Federal Reserve bank or by the authorized commercial bank, whichever is earlier. Each person making deposits pursuant to this section shall report on the return for the period with respect to which such deposits are made information regarding such deposits in accordance with the instructions applicable to such return and pay therewith (or deposit by the due date of such return) the balance, if any, of the taxes due for such period.

(4) *Time deemed paid.* Amounts deposited under subparagraph (3) of this paragraph shall be considered as paid on the last day prescribed for filing the return in respect of such tax (determined without regard to any extension of time for filing such return), or at the time deposited, whichever is later.

(5) *Procurement of prescribed forms.* Copies of the applicable deposit form will so far as possible be furnished persons required to deposit. Such a person will not be excused from making a deposit, however, by the fact that no form has been furnished to him. A person not supplied with the proper form should make application therefor in ample time to make the required deposits within the time prescribed. The person may secure the form or additional forms by applying therefor and supplying his name, identification number, address and the taxable period to which the deposits will relate. Copies of Form 537 for deposits for periods prior to 1968 may be secured by application to the district director or to a Federal Reserve bank. The address of the person as entered on such form should be the address to which the receipt should be returned following validation by the Federal Reserve bank. Copies of Form 504 for deposits for periods subsequent to 1967 may be secured by application therefor to the district director or director of a service center.

[F.R. Doc. 67-14646; Filed, Dec. 15, 1967; 8:49 a.m.]

Title 31—MONEY AND FINANCE: TREASURY

Chapter II—Fiscal Service, Department of the Treasury

SUBCHAPTER A—BUREAU OF ACCOUNTS

[Dept. Circular 1079 [1st Revision]]

PART 214—DEPOSITARIES FOR FEDERAL TAXES

Part 214, Subchapter A, Chapter II of Title 31 of the Code of Federal Regulations (also appearing as Treasury Department Circular No. 1079, dated Mar. 3, 1967) is hereby revised effective January 1, 1968,[1] to read as follows:

Sec.
214.1 Scope of regulations.
214.2 Definitions.
214.3 Particular locations.
214.4 Designation of depositaries for Federal taxes.
214.5 Qualification.
214.6 Handling of deposits of Federal taxes.
214.7 Specific instructions.

AUTHORITY: The provisions of this Part 214 issued under sec. 10, 56 Stat. 356, as amended (12 U.S.C. 265); sec. 15, 38 Stat. 265 (12 U.S.C. 391); sec. 8, 40 Stat. 291, as amended (31 U.S.C. 771); and sec. 6302(c), Internal Revenue Code of 1954, as amended.

§ 214.1 Scope of regulations.

The regulations in this part govern the designation and qualification of Depositaries for Federal Taxes and the handling by them of deposits of Federal taxes.

§ 214.2 Definitions.

As used in this part, the term:

"Depositary" means a Depositary for Federal taxes.

"Federal taxes" means those Federal taxes which have been specified by the Secretary of the Treasury or his delegate as eligible for payment through the procedure prescribed by this part.

"Federal tax deposit form" means a form, preinscribed with the name, address, and identification number of the taxpayer, supplied to a taxpayer by the Treasury Department to accompany deposits of Federal taxes made under the procedure prescribed by this part.

§ 214.3 Particular locations.

For the purposes of this part, depositaries located in Puerto Rico, the Virgin Islands, and the Panama Canal Zone will be considered as being located in the New York Federal Reserve district and those located in Guam and American Samoa will be considered as being located in the San Francisco Federal Reserve district.

§ 214.4 Designation of depositaries for Federal taxes.

Every incorporated bank and trust company in the United States; Puerto Rico, the Virgin Islands, the Panama Canal Zone, Guam, and American Samoa, and every United States branch of a foreign banking corporation authorized by the State in which it is located to transact commercial banking business, is designated as a Depositary for Federal Taxes.

§ 214.5 Qualification.

(a) *Authorization.* A depositary is not authorized to act under its designation and the procedure prescribed by this part until it has been qualified.

(b) *Application.* To qualify a depositary must file with the Federal Reserve Bank of its district an application accompanied by a resolution of its board of directors authorizing the application, both on forms available from the Federal Reserve Bank.

(c) *Agreement.* Receipt by a depositary of notice of approval of its application by the Federal Reserve Bank completes the depositary's qualification and creates an agreement between it and the Treasury Department under which the depositary agrees to be bound by all the terms and provisions of this part and the provisions prescribed in section 202 of Executive Order 11246, entitled "Equal Employment Opportunity" (30 F.R. 12319).

(d) *Existing agreements.* Existing agreements between depositaries and the Treasury Department shall continue in effect without further action until terminated. A depositary which accepts a deposit of Federal taxes under an existing agreement thereby agrees to be bound by all the terms and provisions of this part and the provisions prescribed in section 202 of Executive Order 11246, entitled "Equal Employment Opportunity" (30 F.R. 12319).

(e) *Termination of agreement.* The Secretary of the Treasury may terminate at any time the agreement with any depositary. Failure upon the part of a depositary to comply with the terms of its agreement, or with instructions issued pursuant to this part, may, in the discretion of the Secretary of the Treasury, constitute grounds for the termination of the agreement. A depositary may terminate its agreement by notice, in writing, to the Federal Reserve Bank of its district.

§ 214.6 Handling of deposits of Federal taxes.

(a) *Deposits with depositaries.* A depositary shall, through any of its offices that accept demand or time deposits:

(1) Accept from a taxpayer cash, a postal money order drawn to the order of the depositary, or a check or draft drawn on and to the order of the depositary, which shall be without risk to the depositary, covering an amount to be deposited as Federal taxes when accompanied by a Federal tax deposit form on which the amount of the deposit has been properly entered in the space provided.

(2) When requested to do so by a taxpayer who makes a deposit of Federal taxes in cash over the counter, issue a counter receipt, which may be accomplished by completing and returning to the taxpayer the stub portion of the Federal tax deposit form.

(3) Place, in the space provided on the face of each Federal tax deposit form, a stamp impression reflecting the date on which the tax deposit was received by the depositary, by reference to which the timeliness of the tax payment will be determined, and the name and location of the depositary.

(4) Forward each day to the Federal Reserve Bank of its district the Federal

[1] The procedure prescribed by this part will supersede the procedure prescribed by Part 213 of this chapter (Department Circular 848 (Second Revision)) for the deposit of Federal taxes for which the liability accrues on or after Jan. 1, 1968.

tax deposit forms, with stubs detached, for all tax deposits received that day, together with payment in funds immediately available at the Federal Reserve Bank, or with advice that the amount has been credited in the Treasury Tax and Loan Account into which the depositary is authorized to credit funds representing the payment of taxes pursuant to its designation as a Special Depositary of Public Money under the provisions of Part 203 of this subchapter. Each transmittal shall be accompanied by a transmittal letter in the form prescribed by the Federal Reserve Bank of the district.

(5) Establish, prior to transmittal to the Federal Reserve Bank, an adequate record of all deposits of Federal taxes so that it will be able to identify deposits in the event tax deposit forms are lost in shipment between it and the Federal Reserve Bank. For this purpose a record must be made of each deposit, showing as a minimum the date of deposit, the taxpayer's identifying number, and the amount of deposit. The depositary's copies of transmittal letters may be used to provide the necessary information if individual deposits are listed separately showing date, taxpayer's identifying number, and amount.

(6) Not accept compensation from taxpayers for accepting deposits of Federal taxes and handling them as required by this section.

(b) *Deposits with Federal Reserve Banks.* A Federal Reserve Bank shall, through any of its offices:

(1) Accept directly from a taxpayer cash, a check or money order drawn to the order of the Bank, or Treasury bills as authorized in Part 309 of this chapter, covering an amount to be deposited as Federal taxes when accompanied by a Federal tax deposit form on which the amount of the deposit has been properly entered in the space provided.

(2) When requested to do so by a taxpayer who makes a deposit of Federal taxes in cash over the counter, issue a counter receipt, which may be accomplished by completing and returning to the taxpayer the stub portion of the Federal tax deposit form.

(3) Place, in the space provided on the face of each Federal tax deposit form accepted directly from a taxpayer, a stamp impression reflecting the date on which the tax deposit was received by the Bank, by reference to which the timeliness of the tax payment will be determined, and the name of the Bank.

§ 214.7 Specific instructions.

Federal Reserve Banks are authorized to issue instructions consistent with these regulations for carrying out the requirements of this part.

Dated: December 13, 1967.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[F.R. Doc. 67-14673; Filed, Dec. 15, 1967; 8:49 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 224—TREATMENT OF INCOMING POSTAL UNION MAIL

PART 232—INCOMING PARCELS

Customs Clearance and Delivery Fees on International Mail

A notice of proposed rule making was published in the FEDERAL REGISTER on October 26, 1967 (32 F.R. 14851) which would increase customs fees collected on incoming postal union articles. One proposed revision to paragraph (a)(1) of § 224.1 would increase the fee collected from the addressee of 13 cents to 20 cents on every incoming postal union article other than a small packet on which customs duty or internal revenue tax is collected. A second proposed revision to paragraph (a)(1) of § 224.1 would reflect an increase of fees collected from 33 cents to 50 cents on every small packet. This second proposed increase would be reflected in paragraph (a) of § 232.1 where the customs clearance and delivery fee would be changed from 33 cents to 50 cents on every incoming parcel post package on which customs duty or internal revenue tax is collected. Interested parties were invited to submit written comments concerning the proposed increased fees.

As the Department has received no comments concerning the proposals, it has decided to adopt the increased fees proposals. Accordingly, §§ 224.1(a)(1) and 232.1(a) read as follows and are to be effective on January 15, 1968.

§ 224.1 Charges.

(a) *Customs clearance and delivery fees.* (1) Post offices will collect a fee of 20 cents from the addressee of every postal union article, other than a small packet, on which customs duty or internal revenue tax is collected. On every small packet on which duty or internal revenue tax is collected, the fee is 50 cents for each packet. The fees apply also when post office service is rendered for formal entry articles on which importers pay the customs charges directly to the Customs Service. The fees are retained by the Postal Service, and are accounted for by affixing postage due stamps to the articles or packets and canceling. See § 232.1(a) of this chapter concerning fees on incoming dutiable parcel post, and § 261.5(e) of this chapter concerning recording and reporting duty collections.

* * * * *

NOTE: The corresponding Postal Manual Section is 224.111.

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§ 232.1 Charges.

(a) *Customs clearance and delivery fees.* Post offices will collect a fee of 50 cents from the addressee of every parcel post package on which customs duty or internal revenue tax is collected. The fee applies also when post office service is rendered for formal entry parcels on which importers pay the customs charges directly to the Customs Service. The fee is retained by the Postal Service, and is accounted for by affixing postage-due stamps to the parcel or to a postage-due bill and canceling. The fee is authorized by international parcel post agreements as reimbursement to the Postal Service for the work it performs in clearing parcels through customs and for delivery to the addressee. The provisions of § 224.1 (a) (3) through (5) of this chapter also apply. See § 261.5(e) of this chapter concerning recording and reporting duty collections.

* * * * *

NOTE: The corresponding Postal Manual section is 232.11.

(5 U.S.C. 301, 39 U.S.C. 501, 505)

TIMOTHY J. MAY,
General Counsel.

DECEMBER 14, 1967.

[F.R. Doc. 67-14696; Filed, Dec. 15, 1967; 8:49 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

MISCELLANEOUS AMENDMENTS TO CHAPTER

This amendment of the Federal Procurement Regulations prescribes changed policies and procedures which reflect the October 16, 1967, amendments of Defense Manpower Policy No. 4, 32A CFR Ch. 1, DMP 4 (32 F.R. 14388), and the Department of Labor regulations, 29 CFR Part 8 (32 F.R. 14387). The changes appear in Subpart 1–1.7, Small Business Concerns, Subpart 1–1.8, Labor Surplus Area Concerns, § 1–2.407–6, Equal low bids, and § 1–16.101, Contract forms, and provide a preference for firms which agree to perform, or cause to be performed, a substantial proportion of a contract in areas classified by the Department as sections of concentrated unemployment and underemployment and to employ or require subcontractors to employ a proportionate number of persons residing within such sections in accordance with plans approved by the Secretary of Labor.

PART 1–1—GENERAL

Subpart 1–1.7—Small Business Concerns

Section 1–1.706–6 is amended to read as follows:

§ 1–1.706–6 Partial set-asides.

* * * * *

(c) * * *

NOTICE OF PARTIAL SMALL BUSINESS SET-ASIDE

(a) *General.* A portion of this procurement, as identified elsewhere in the Schedule, has been set aside for award only to one or more small business concerns. Negotiations for award of this set-aside portion will be conducted only with responsible

small business concerns who have submitted responsive bids on the non-set-aside portion at a unit price within 120 percent of the highest award made on the non-set-aside portion. Negotiations shall be conducted with such small business concerns in the following order of priority:

Group 1. Small business concerns which are also certified-eligible concerns.

Group 2. Small business concerns which are also persistent labor surplus area concerns.

Group 3. Small business concerns which are also substantial labor surplus area concerns.

Group 4. Small business concerns which are not labor surplus area concerns.

* * * * *

(b) * * *

(2) The term "labor surplus area" means a geographical area which is either a section of concentrated unemployment or underemployment, a persistent labor surplus area, or a substantial labor surplus area, as defined below:

(i) "Section of concentrated unemployment or underemployment" means appropriate sections of States or "labor areas" so classified by the Secretary of Labor.

(ii) "Persistent labor surplus area" means an area which (A) is classified by the Department of Labor as an "Area of Substantial and Persistent Labor Surplus" (also called "Area of Substantial and Persistent Unemployment") and is listed as such by that Department in conjunction with its publication "Area Trends in Employment and Unemployment," or (B) is certified as an area of substantial and persistent labor surplus by the Department of Labor pursuant to a request by a prospective contractor.

(iii) "Substantial labor surplus area" means an area which (A) is classified by the Department of Labor as an "Area of Substantial Labor Surplus" (also called "Area of Substantial Unemployment") and which is listed as such by that Department in conjunction with its publication "Area Trends in Employment and Unemployment," or (B) is certified as an area of substantial labor surplus by the Department of Labor pursuant to a request by a prospective contractor.

(3) The term "labor surplus area concern" includes certified-eligible concerns, persistent labor surplus area concerns, and substantial labor surplus area concerns, as defined below:

(i) "Certified-eligible concern" means a concern located in or near a section of concentrated unemployment or underemployment which has been certified by the Secretary of Labor in accordance with 29 CFR 8.7 (b) with respect to employment of disadvantaged persons residing within such sections, and which will agree to perform, or cause to be performed by a certified concern, a substantial proportion of a contract in or near such sections; it includes a concern which, though not so certified, agrees to have a substantial proportion of a contract performed by certified concerns in or near such sections. A concern shall be deemed to perform a substantial proportion of a contract in or near sections of concentrated unemployment or underemployment if the costs that the concern will incur on account of manufacturing or production in or near such sections (by itself, if a certified concern, or by certified concerns acting as first-tier subcontractors) amount to more than 30 percent of the contract price.

(ii) "Persistent labor surplus area concern" means a concern that agrees to perform, or cause to be performed, a substantial proportion of a contract in persistent labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in persistent labor surplus areas if the costs that the concern will incur on account of manufacturing or production performed in such areas (by itself or its first-tier subcontractors) amount to more than 50 percent of the contract price.

(iii) "Substantial labor surplus area concern" means a concern that agrees to perform, or cause to be performed, a substantial proportion of a contract in substantial labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in substantial labor surplus areas if the costs that the concern will incur on account of manufacturing or production performed in substantial and persistent labor surplus areas (by itself or its first-tier subcontractors) amount to more than 50 percent of the contract price.

(c) *Identification of Areas of Performance.* Each bidder desiring to be considered for award as a small business labor surplus area concern on the set-aside portion of this procurement shall identify in his bid the geographical areas in which he proposes to perform, or cause to be performed, a substantial proportion of the production of the contract. If the Department of Labor classification of any such area changes after the bidder has submitted his bid, the bidder may change the areas in which he proposes to perform: *Provided,* That he so notifies the Contracting Officer before award of the set-aside portion. Priority for negotiation will be based upon the labor surplus classification of the designated production areas as of the time of the proposed award.

(d) *Eligibility Based on Certification.* Where eligibility for preference is based upon the status of the bidder, or bidder's subcontractors, as a "certified-eligible concern," the bidder shall furnish with his bid evidence of certification by the Secretary of Labor.

(e) *Agreement.* The bidder agrees that:

(1) If awarded a contract as a certified-eligible concern under the set-aside portion of this procurement, he will perform, or cause to be performed, a substantial proportion of the contract in or near sections of concentrated unemployment or underemployment, and in the performance of such contract will employ, or require certified subcontractors to employ, a proportionate number of disadvantaged persons residing within sections of concentrated unemployment or underemployment in accordance with plans approved by the Secretary of Labor;

(2) If awarded a contract as a persistent labor surplus area concern under the set-aside portion of this procurement, he will perform, or cause to be performed, a substantial proportion of the production in areas classified at the time of award, or at the time of performance of the contract, as persistent labor surplus areas; and

(3) If awarded a contract as a substantial labor surplus area concern under the set-aside portion of this procurement, he will perform, or cause to be performed, a substantial proportion of the production in areas, classified at the time of award, or at the time of performance of the contract, as substantial or persistent labor surplus areas.

* * * * *

Subpart 1–1.8—Labor Surplus Area Concerns

Sections 1–1.800, 1–1.801, 1–1.804–3, and 1–1.807 are revised and §§ 1–1.802, 1–1.804–2, and 1–1.805–3 are amended to read as follows:

§ 1–1.800 Scope of subpart.

This subpart sets forth policies and procedures with respect to aiding sections classified as having concentrated unemployment or underemployment and areas of persistent or substantial labor surplus hereinafter referred to as labor surplus areas, in the United States, its possessions, and Puerto Rico. This subpart implements Defense Manpower Policy No. 4 (Revised), October 16, 1967 (32A CFR ch. 1), and U.S. Department of Labor Regulations (Revised), October 16, 1967 (29 CFR Part 8).

§ 1–1.801 Definitions.

§ 1–1.801–1 Labor surplus area concern.

The term "labor surplus area concern" includes certified-eligible concerns, persistent labor surplus area concerns, and substantial labor surplus area concerns, as defined in this § 1–1.801–1.

(a) "Certified-eligible concern" means a concern located in or near a section of concentrated unemployment or underemployment which has been certified by the Secretary of Labor in accordance with 29 CFR 8.7(b) with respect to employment of disadvantaged persons residing within such sections, and which will agree to perform, or cause to be performed by a certified concern, a substantial proportion of a contract in or near such sections; it includes a concern, which, though not so certified, agrees to have a substantial proportion of a contract performed by certified concerns in or near such sections. A concern shall be deemed to perform a substantial proportion of a contract in or near sections of concentrated unemployment or underemployment if the costs that the concern will incur on account of manufacturing or production in or near such sections (by itself, if a certified concern, or by certified concerns acting as first-tier subcontractors) amount to more than 30 percent of the contract price.

(b) "Persistent labor surplus area concern" means a concern which will perform, or cause to be performed, a substantial proportion of a contract in persistent labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in persistent labor surplus areas if the costs that the concern will incur on account of manufacturing or production performed in such areas (by itself or its first-tier subcontractors) amount to more than 50 percent of the contract price.

(c) "Substantial labor surplus area concern" means a concern which will perform, or cause to be performed, a substantial proportion of a contract in substantial labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in substantial labor surplus areas if the costs that the concern will incur on account of manufacturing or production performed in substantial and persistent labor surplus areas or in substantial and persistent labor surplus areas (by itself or its first-tier subcontractors) amount to more than 50 percent of the contract price.

§ 1–1.801–2 Labor surplus area.

The term "labor surplus area" means a geographical area which at the time of

award is either a section of concentrated unemployment or underemployment, a persistent labor surplus area, or a substantial labor surplus area, as defined in this § 1–1.801–2.

(a) "Section of concentrated unemployment or underemployment" means appropriate sections of States or "labor areas" so classified by the Secretary of Labor.

(b) "Persistent labor surplus area" means an area which (1) is classified by the Department of Labor as an "Area of Substantial and Persistent Labor Surplus" (also called "Area of Substantial and Persistent Unemployment") and is listed as such by that Department in conjunction with its publication "Area Trends in Employment and Unemployment" or (2) is certified as an area of substantial and persistent labor surplus by the Department of Labor pursuant to a request by a prospective contractor.

(c) "Substantial labor surplus area" means an area which (1) is classified by the Department of Labor as an "Area of Substantial Labor Surplus" (also called "Area of Substantial Unemployment") and which is listed as such by that Department in conjunction with its publication "Area Trends in Employment and Unemployment" or (2) is certified as an area of substantial labor surplus by the Department of Labor pursuant to a request by a prospective contractor.

§ 1–1.801–3 Small business concern.

For definition of small business concern, see Subpart 1–1.7.

§ 1–1.802 Labor surplus area policies.

§ 1–1.802–1 General policy.

It is the policy of the Government to encourage the placing of contracts in sections of concentrated unemployment and underemployment and in areas of persistent and substantial labor surplus, to the extent consistent with procurement objectives, and where such contracts can be awarded at prices no higher than those obtainable from other concerns, and by encouraging prime contractors to place subcontracts with concerns which will perform a substantial proportion of the production in such sections and in labor surplus areas.

§ 1–1.802–2 Specific policies.

* * * * *

(b) * * *

(2) In order to accommodate both labor surplus area and small business policies, labor surplus area set-aside awards shall be made in accordance with the following order of priority: (i) Certified-eligible concerns which are also small business concerns; (ii) other certified-eligible concerns; (iii) persistent labor surplus area concerns which are also small business concerns; (iv) other persistent labor surplus area concerns; (v) substantial labor surplus area concerns which are also small business concerns; (vi) other substantial labor surplus area concerns; and (vii) small business concerns which are not labor surplus area concerns.

(c) Procurement agencies shall disseminate promptly to appropriate procurement personnel available publications and other information identifying sections of concentrated unemployment and underemployment and other labor surplus areas and production capabilities therein.

(d) The classification and certification of labor surplus areas and concerns by the Department of Labor shall be considered conclusive with respect to the particular procurement concerned.

* * * * *

§ 1–1.804–2 Notice of bidders or offerors.

* * * * *

(b) Notice:

NOTICE OF LABOR SURPLUS AREA SET-ASIDE

(a) *General.* A portion of this procurement, as identified elsewhere in the Schedule, has been set aside for award only to one or more labor surplus area concerns and, to a limited extent, to small business concerns which do not qualify as labor surplus area concerns. Negotiations for award of the set-aside portion will be conducted only with responsible labor surplus area concerns (and small business concerns to the extent indicated below) which have submitted responsive bids or proposals on the non-set-aside portion at a unit price no greater than 120 percent of the highest award made on the non-set-aside portion. Negotiations for the set-aside portion will be conducted with such bidders in the following order of priority:

Group 1. Certified-eligible concerns which are also small business concerns.

Group 2. Other certified-eligible concerns.

Group 3. Persistent labor surplus area concerns which are also small business concerns.

Group 4. Other persistent labor surplus area concerns.

Group 5. Substantial labor surplus area concerns which are also small business concerns.

Group 6. Other substantial labor surplus area concerns.

Group 7. Small business concerns which are not labor surplus area concerns.

Within each of the above groups, negotiations with such concerns will be in the order of their bids on the non-set-aside portion, beginning with the lowest responsive bid. The set-aside portion shall be awarded at the highest unit price awarded on the non-set-aside portion, adjusted to reflect transportation and other cost factors which were considered in evaluating bids on the non-set-aside portion. However, the Government reserves the right not to consider token bids or other devices designed to secure an unfair advantage over other bidders eligible for the set-aside portion.

(b) *Definitions.* (1) The term "labor surplus area" means a geographical area which is either a section of concentrated unemployment or underemployment, a persistent labor surplus area, or a substantial labor surplus area, as defined below:

(i) "Section of concentrated unemployment or underemployment" means appropriate sections of States or "labor areas" so classified by the Secretary of Labor.

(ii) "Persistent labor surplus area" means an area which (A) is classified by the Department of Labor as an "Area of Substantial and Persistent Labor Surplus" (also called "Area of Substantial and Persistent Unemployment") and is listed as such by that Department in conjunction with its publication "Area Trends in Employment and Unemployment" or (B) is certified as an area of substantial and persistent labor surplus by the Department of Labor pursuant to a request by a prospective contractor.

(iii) "Substantial labor surplus area" means an area which (A) is classified by the Department of Labor as an "Area of Substantial Labor Surplus" (also called "Area of Substantial Unemployment") and is listed as such by that Department in conjunction with its publication "Area Trends in Employment and Unemployment" or (B) is certified as an area of substantial labor surplus by the Department of Labor pursuant to a request by a prospective contractor.

(2) The term "labor surplus area concern" includes certified-eligible concerns, persistent labor surplus area concerns, and substantial labor surplus area concerns, as defined below:

(i) "Certified-eligible concern" means a concern located in or near a section of concentrated unemployment or underemployment which has been certified by the Secretary of Labor in accordance with 29 CFR 8.7(b) with respect to employment of disadvantaged persons residing within such sections, and which will agree to perform, or cause to be performed by a certified concern, a substantial proportion of a contract in or near such sections; it includes a concern which, though not so certified, agrees to have a substantial proportion of a contract performed by certified concerns in or near such sections. A concern shall be deemed to perform a substantial proportion of a contract in or near sections of concentrated unemployment or underemployment if the costs that the concern will incur on account of manufacturing or production in or near such sections (by itself, if a certified concern, or by certified concerns acting as first-tier subcontractors) amount to more than 30 percent of the contract price.

(ii) "Persistent labor surplus area concern" means a concern that agrees to perform, or cause to be performed, a substantial proportion of a contract in persistent labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in persistent labor surplus areas if the costs that the concern will incur on account of manufacturing or production performed in such areas (by itself or its first-tier subcontractors) amount to more than 50 percent of the contract price.

(iii) "Substantial labor surplus area concern" means a concern that agrees to perform, or cause to be performed, a substantial proportion of a contract in substantial labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in substantial labor surplus areas if the costs that the concern will incur on account of manufacturing or production performed in substantial labor surplus areas or in substantial and persistent labor surplus areas (by itself or its first-tier subcontractors) amount to more than 50 percent of the contract price.

(3) A "small business concern" is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts, and can further qualify under the criteria set forth in regulations of the Small Business Administration (13 CFR 121.3–8). In addition to meeting these criteria, a manufacturer or a regular dealer submitting bids or proposals in his own name must agree to furnish in the performance of the contract end items manufactured or produced in the United States, its possessions, or Puerto Rico, by small business concerns: *Provided*, That this additional requirement does not apply in connection with construction or service contracts.

(c) *Identification of Areas of Performance.* Each bidder desiring to be considered for award as a labor surplus area concern on the set-aside portion of this procurement shall identify in his bid the geographical areas in which he proposes to perform, or cause to be performed, a substantial proportion of the production of the contract. If the Department of Labor classification of any such area changes after the bidder has submitted his bid, the bidder may change the areas in which he proposes to perform, provided that he so notifies the Contracting Officer before award of the set-aside portion. Priority for negotiation will be based upon the labor surplus classification of the designated production areas as of the time of the proposed award.

(d) *Eligibility Based on Certification.* Where eligibility for preference is based upon the status of the bidder or bidders subcontractors as a "certified-eligible concern," the bidder shall furnish with his bid evidence of certification by the Secretary of Labor.

(e) *Agreement.* The bidder agrees that: (1) If awarded a contract as a certified-eligible concern under the set-aside portion of this procurement, he will perform, or cause to be performed, a substantial proportion of the contract in or near sections of concentrated unemployment or underemployment, and in the performance of such contract will employ, or require certified subcontractors to employ, a proportionate number of disadvantaged persons residing within sections of concentrated unemployment or underemployment in accordance with plans approved by the Secretary of Labor;

(2) If awarded a contract as a persistent labor surplus area concern under the set-aside portion of this procurement, he will perform, or cause to be performed, a substantial proportion of the production in areas classified at the time of award, or at the time of performance of the contract, as persistent labor surplus areas; and

(3) If awarded a contract as a substantial labor surplus area concern under the set-aside portion of this procurement, he will perform, or cause to be performed, a substantial proportion of the production in areas classified at the time of award, or at the time of performance of the contract, as substantial or persistent labor surplus areas.

§ 1–1.804–3 Award procedures.

(a) *Awarding the non-set-aside portion.* Awards on the non-set-aside portion shall be made in accordance with normal procurement procedures.

(b) *Awarding the set-aside portion.* (1) After all awards have been made on the non-set-aside portion, award of the set-aside portion shall be effected by negotiation with eligible concerns as provided in the notice. To determine whether a concern is eligible for preferential consideration as a labor surplus area concern the area classification of the Department of Labor in effect at the time of the award, as well as any applicable evidence of a Department of Labor certification, shall be used. Contracts for the set-aside portion shall specify the preferential status of the bidder or offeror on which the award was based.

(2) If equal low bids were received on the non-set-aside portion from concerns which are eligible for the set-aside portion, the concern which is awarded the non-set-aside portion (under the equal low bid procedures of § 1–2.407–6 shall have the first priority with respect to negotiations for the set-aside portion.

(c) *Nonawarded set-aside portion.* If any part of the set-aside quantity cannot be awarded by the method described in this § 1–1.804, any unawarded portion may be procured by advertising or negotiation, as appropriate, in accordance with existing regulations. A record of the reasons for failure to award the set-aside portion to labor surplus area concerns shall be included in the contract file.

§ 1–1.805–3 Required clauses.

(a) The "Utilization of Concerns in Labor Surplus Areas" clause, set forth below, shall be inserted in all contracts in amounts which may exceed $5,000, except:

(1) Contracts with foreign contractors which, including all subcontracts thereunder, are to be performed entirely outside the United States, its possessions, and Puerto Rico;

(2) Contracts for services which are personal in nature; and

(3) Contracts for construction.

UTILIZATION OF CONCERNS IN LABOR SURPLUS AREAS

It is the policy of the Government to place contracts with concerns which will perform such contracts substantially in or near concentrated unemployment or underemployment sections of States or in areas of persistent or substantial labor surplus, where this can be done consistent with the efficient performance of the contract and at prices no higher than are obtainable elsewhere. The Contractor agrees to use his best efforts to place his subcontracts in accordance with this policy. In complying with the foregoing and with paragraph (b) of the clause of this contract entitled "Utilization of Small Business Concerns" the Contractor in placing his subcontracts shall observe the following order of preference: (a) Certified-eligible concerns which are also small business concerns; (b) other certified-eligible concerns; (c) persistent labor surplus area concerns which are also small business concerns; (d) other persistent labor surplus area concerns; (e) substantial labor surplus area concerns which are also small business concerns; (f) other substantial labor surplus area concerns; and (g) small business concerns which are not labor surplus area concerns.

(b) The "Labor Surplus Area Subcontracting Program" clause, set forth in this paragraph (b), shall be included in all contracts which may exceed $500,000, which contain the clause required by § 1–1.805–3(a) and which, in the opinion of the procuring activity, offer substantial subcontracting possibilities. Furthermore, prime contractors who are to be awarded contracts which may not exceed $500,000 but which, in the opinion of the procuring activity, offer substantial subcontracting possibilities, shall be urged to accept this clause.

LABOR SURPLUS AREA SUBCONTRACTING PROGRAM

* * * * *

(b) A "labor surplus area concern" is a concern which will perform, or cause to be performed, a substantial proportion of any contract awarded to it (1) in or near sections of concentrated unemployment or underemployment as a certified-eligible concern, or (2) a concern which will perform, or cause to be performed, a substantial proportion of any contract awarded to it in "Areas of Substantial Labor Surplus" (also called "Areas of Substantial Unemployment"), as designated by the Department of Labor. A concern shall be deemed to perform a substantial proportion of a contract in or near sections of concentrated unemployment or underemployment if the costs that the concern will incur on account of manufacturing or production in or near such sections (by itself, if a certified concern, or by certified concerns acting as first-tier subcontractors) amount to more than 30 percent of the contract price. A concern shall be deemed to perform a substantial proportion of a contract in a labor surplus area if the costs that the concern will incur on account of manufacturing or production performed in persistent or substantial labor surplus areas (by itself or its first-tier subcontractors) amount to more than 50 percent of the price of such contract.

* * * * *

§ 1–1.807 Report on preference procurement in labor surplus areas.

(a) *Agencies required to report.* Each agency which places contracts to be performed in surplus labor areas under this Subpart 1–1.8 and § 1–2.407–6 shall report such procurement in accordance with this section. When procurement is performed by one agency for, and at the request of, another agency, the agency doing the procurement shall report.

(b) *Frequency and due date.* Reports shall be prepared semiannually and submitted to the General Services Administration, Office of Administration, Washington, D.C. 20405, within 45 work days after January 1 and June 30 of each year. Agencies having no reportable procurement during any report period shall submit negative reports.

(c) *Preparation of report*—(1) *Procurement to be reported.* (i) Reports shall state the total dollar amount of procurement awards placed in labor surplus areas as a result of preference procedures under this Subpart 1–1.8 and § 1–2.407–6, with subtotals showing the dollar amount placed with small business concerns and other than small business concerns. Amendments and modifications shall be included to reflect the total value of such actions. Agencies entering into indefinite quantity contracts to be performed in labor surplus areas as a result of preference procedures shall estimate, in accordance with agency procedures, the total dollar amount of orders which will be placed thereunder and include such data in the report.

(ii) Detailed information as to the dollar amount of contracts placed in specific labor surplus areas shall not be reported to the General Services Administration. However, such information should be retained by each agency for a period of at least 1 year and be available for reference by the Office of Emergency Planning and other interested activities.

(2) *Report format.* No standard report form is prescribed. The data reported shall be entered in the "Remarks" portion of Standard Form 37, Report on Procurement by Civilian Executive Agencies, or as an attachment thereto (see § 1–16.804).

(3) *Procurement from textile industry (Notification No. 38).* In addition to the requirements of subparagraph (2) of this paragraph, any preference awards placed with the textile industry during the report period under the provisions of § 1–1.806–5 shall also be reported and shall include the following information:

(i) Dollar amount of such awards placed with concerns which will perform in or near sections of concentrated unemployment and underemployment or in persistent or substantial labor surplus areas.

(ii) Dollar amount of such awards placed with concerns which will not perform in or near sections of concentrated unemployment and underemployment or in persistent or substantial labor surplus areas.

PART 1–2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 1–2.4—Opening of Bids and Award of Contract

Section 1–2.407–6 is amended to include references to certified-eligible concerns. As amended, the section reads as follows:

§ 1–2.407–6 Equal low bids.

(a) * * *

(1) Certified-eligible concerns (as defined in § 1–1.801–1(a)) that are also small business concerns.

(2) Other certified-eligible concerns.

(3) Persistent labor surplus area concerns (as defined in § 1–1.801–1(b)) that are also small business concerns (as defined in Subpart 1–1.7).

(4) Other persistent labor surplus area concerns.

(5) Substantial labor surplus area concerns (as defined in § 1–1.801(c)) that are also small business concerns.

(6) Other substantial labor surplus area concerns.

(7) Other small business concerns.

(8) Other concerns.

* * * * *

PART 1–16—PROCUREMENT FORMS

Subpart 1–16.1—Forms for Advertised Supply Contracts

Section 1–16.101 is amended to read as follows:

§ 1–16.101 Contract forms.

* * * * *

(c) General Provisions (Supply Contract) (Standard Form 32, June 1964 edition). Pending the publication of a new edition of the form, the clause prescribed in § 1–1.805–3(a) shall be substituted for the present provision of Article 22, Utilization of Concerns in Labor Surplus Areas.

* * * * *

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This amendment is effective with respect to invitations for bids issued after the date of publication of the amendment in the FEDERAL REGISTER but may be observed earlier with respect to invitations issued prior to such date.

Dated: December 13, 1967.

LAWSON B. KNOTT, JR.,
Administrator of General Services.

[F.R. Doc. 67–14674; Filed, Dec. 15, 1967; 8:49 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Lower Souris National Wildlife Refuge, N. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NORTH DAKOTA

LOWER SOURIS NATIONAL WILDLIFE REFUGE

Sport fishing on the Lower Souris National Wildlife Refuge, N. Dak., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 11,430 acres or 100 percent of the total water area of the refuge, are delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from December 15, 1967, through March 24, 1968, daylight hours only.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through March 24, 1968.

JERALD J. WILSON,
Refuge Manager, Lower Souris National Wildlife Refuge, Upham, N. Dak.

DECEMBER 11, 1967.

[F.R. Doc. 67–14613; Filed, Dec. 15, 1967; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 405]

[Reg. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED

Proposed Agreements With and Functions of Providers, Intermediaries, Carriers, and State Agencies

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be promulgated by the Commissioner of Social Security with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations (20 CFR Part 405, § 405.601 et seq.) add a new Subpart F relating to contracts with providers of service, intermediaries, carriers, and States for the performance of functions under the Federal Health Insurance for the Aged program.

Prior to the final adoption of the proposed regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

The proposed Federal Health Insurance for the Aged regulations are to be issued under the authority contained in sections 1102, 1816, 1842, 1861(u), 1864, 1866, 1871, 49 Stat. 647, as amended, 79 Stat. 297–299; 79 Stat. 309–312; 79 Stat. 322; 79 Stat. 326; 79 Stat. 327–329; 79 Stat. 331; 42 U.S.C. 1302, 1395 et seq.

1. Chapter III, Title 20 is amended by adding thereto Subpart F of Part 405 to read as follows:

Subpart F—Agreements With and Functions of Providers, Intermediaries, Carriers, and State Agencies

§ 405.601 Scope of subpart.

The provisions of §§ 405.602–405.621 discuss provider agreements which an eligible provider of services must file with the Secretary in order to qualify for participation in the health insurance program for the aged. Sections 405.651–405.663 and §§ 405.670–405.678 discuss agreements under which Part A intermediaries and Part B carriers will perform specified functions necessary in the administration of the hospital insurance and supplementary medical insurance programs. Section 405.685 discusses agreements which the Secretary shall enter into with any State for the purpose of assisting the Secretary in determining whether an institution situated in such State is a hospital, extended care facility, or home health agency, and whether an independent laboratory meets the conditions for coverage of services.

§ 405.602 Provider agreements; general.

A hospital, extended care facility, or home health agency which meets the conditions of participation (see Subparts J, K, and L of this part) will be qualified to participate and shall be eligible for payments if it is found to be in compliance with the provisions of title VI of the Civil Rights Act and if it submits to the Secretary a duly executed agreement to participate and such agreement is accepted for filing by the Secretary.

§ 405.605 Provider of services; scope of term.

As used in the Act and the regulations, the term "provider of services" (or "provider") refers only to a hospital, an extended care facility, or a home health agency (see Subparts J. K, and L of this part).

§ 405.606 Acceptance of provider as a participant.

(a) Where the Secretary, after reviewing the agency certification (see § 405.686) and other evidence relating to the qualifications of the institution, determines that the requirements for participation are met by the institution, such institution will be furnished:

(1) Written notice of the determination; and

(2) Two copies of the provider agreement to be entered into pursuant to section 1866 of the Act.

(b) If the provider wishes to participate in the program, both copies of the agreement must be signed by an authorized official of the organization and filed with the Secretary and, upon acceptance for filing by the Secretary, a copy of such agreement shall be returned to the provider with notice of acceptance.

§ 405.607 Essentials of agreements with providers of services.

Under the terms of the agreement (see § 405.606) the provider agrees:

(a) Not to charge any individual, or an yother person (except as described in §§ 405.608–405.610):

(1) For items and services for which such individual is entitled to have payment made under the provisions described in the regulations in this Part 405; or

(2) For items and services for which he would be so entitled to have payment made if such provider of services had complied with the procedural and other requirements described in § 405.612; or

(3) For inpatient hospital services furnished an individual who has exhausted his benefits under Subpart A of this part, if the provider is reimbursed by the Secretary as discussed in § 405.161;

(b) To return or make disposition, in accordance with the provisions of §§ 405.618–405.621, of any amounts incorrectly collected from an individual, or from any other person on his behalf.

§ 405.608 Allowable charges; deductible, coinsurance and copayment.

(a) Subject to the provision of paragraph (b) of this section, a participating provider of services may charge an individual, or other person:

(1) The amount of the inpatient hospital deductible or if less, the actual charges for such services, and the amount of the inpatient hospital coinsurance for each day the individual is furnished inpatient hospital services during a spell of illness after the 60th day and before the 91st day;

(2) The outpatient hospital diagnostic services deductible;

(3) Twenty percent of the reasonable charges for outpatient hospital diagnostic services during a diagnostic study period for which payment is made under the hospital insurance plan;

(4) The posthospital extended care services coinsurance amount;

(5) The $50 supplementary medical insurance deductible;

(6) Twenty percent of the reasonable charges in excess of the $50 deductible for items and services covered under the supplementary medical insurance plan.

(b) A provider may not charge an individual more than the amount customarily charged by such provider for items and services furnished such individual.

§ 405.609 Allowable charges; whole blood costs.

(a) A provider of services may charge an individual or other person for any of the first 3 pints of whole blood furnished the individual as an inpatient during a spell of illness except that:

(1) A provider may not charge an individual more than the amount customarily charged by such provider for whole blood furnished such individual;

(2) Such charge may not be made for any of such first 3 pints of whole blood which are replaced at least pint for pint, by or on behalf of the individual;

(3) Such charge may not be made for any of such first 3 pints of whole blood which are furnished to the provider by a blood bank which:

(i) Makes no charge to the provider for such blood; or

(ii) Makes a service charge for such blood and such charge applies whether or

not such blood is replaced at least pint for pint by or on behalf of the individual.

(b) Any excess of such charge over the cost incurred by the provider for such blood shall be deducted from any payment to such provider under this Part 405.

§ 405.610 Allowable charges; items or services more expensive than, or in excess of, those for which payment may be made.

Where items or services furnished by a provider of services at the request of an individual are more expensive than, or in excess of, items and services for which an individual is entitled to have payment made under the provisions described in Subpart A and B of this Part 405, a provider of services may charge such individual an amount equal to the difference between that amount which the provider of services customarily charges for such items or services and the amount customarily charged by it for the items or services, with respect to which payment can be made under title XVIII of the Act.

§ 405.612 Compliance with procedural and other requirements; individual's refusal to execute request for payment.

(a) For purposes of § 405.607(a)(2), compliance with procedural and other requirements means that the provider of services:

(1) Has secured, from the individual or a proper person acting on his behalf, a written request for payment to be made to the provider, and the provider has properly filed such request; and

(2) Has in its files the required certification and recertification by a physician relating to the individual; and

(3) Has furnished to the Secretary such information as the Secretary has found necessary in order to determine the amount due the provider on behalf of the individual for the period with respect to which payment is to be made or any prior period; and

(4) Has complied with the provisions requiring timely utilization review of long stay cases so that a limitation on days of service has not been imposed under section 1866(d) of the Act (see § 405.617).

(b) Failure on the part of the provider to be in compliance with each of the procedural and other requirements prescribed in paragraph (a) of this section prevents the provider from charging the individual, or any other person, for items and services for which the individual is entitled to have payment made under the the provisions described in the regulations in this Part 405, except that, the provisions of paragraph (a) of this section will not be applicable when the individual refuses to execute a written request for payment to be made on his behalf to the provider. In such cases, the provider may charge the individual, subject to the provisions of § 405.618, for all items and services furnished.

§ 405.613 Termination by provider of services.

(a) A provider may terminate a section 1866 agreement by filing with the Secretary a written notice of its intention to terminate such agreement. The notice of intent to terminate should set the effective date for the termination of the agreement (the date must be the first day of a month) and is to be filed with the Secretary 6 months in advance of the selected termination date. If the notice of termination does not specify the effective date for the termination of the agreement, the date is to be set by the Secretary. In addition to giving notice to the Secretary, the provider should also give at least 15 days notice to the public by publishing in one or more local newspapers a statement of the effective date of termination of its agreement with the Secretary. The notice also should inform the public of the applicability of termination (see § 405.615) as it relates to the services of the provider.

(b) The Secretary may accept a notice of termination which is filed by a provider less than 6 months before the effective termination date, if the Secretary determines that to do so would not unduly disrupt the furnishing of services to the community serviced by the provider or otherwise interfere with the effective and efficient administration of the health insurance benefits program provided by title XVIII of the Act. If the notice of termination is accepted by the Secretary, the provider should also give notice to the public in accordance with the provisions of paragraph (a) of this section.

§ 405.614 Termination by the Secretary.

(a) *Cause for termination.* The Secretary may terminate an agreement if the Secretary determines that the provider of services:

(1) Is not complying substantially with the provisions of title XVIII and this Part 405, or with the provisions of the agreement entered into pursuant to § 405.606; or

(2) No longer meets the appropriate conditions of participation necessary to qualify as a hospital (see Subpart J of this part), extended care facility (see Subpart K of this part), or home health agency (see Subpart L of this part), as the case may be; or

(3) Fails to furnish information as the Secretary finds to be necessary for a determination as to whether payments are due or were due under this Part 405 and the amounts thereof; or

(4) Refuses to permit examination of its fiscal or other records by, or on behalf of, the Secretary as may be necessary for verification of information furnished as a basis for payment under the health insurance benefits program.

(b) *Notice of termination.* The Secretary shall give notice of termination to the provider of services at least 15 days before the effective date of termination of the provider's agreement. In addition to giving notice to the provider, the Secretary shall also give notice of such termination to the public. The notice of termination by the Secretary shall state the effective date of the termination of the provider agreement and the applicability of termination (see § 405.615), as it relates to the services of the provider.

(c) *Appeal by agency or institution.* Any provider dissatisfied with a determination terminating the section 1866 agreement with such provider, shall be entitled to a hearing with respect to such determination (see Subpart O of this part).

§ 405.615 Applicability of termination.

A termination of an agreement under the conditions described in § 405.613 or § 405.614, shall be applicable:

(a) In the case of inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services), or posthospital extended care services, furnished to any individual who is admitted to the hospital or extended care facility furnishing such services on or after the effective day of the termination;

(b) In the case of home health services furnished to an individual under a plan therefor established on or after the effective date of such termination or, if a plan is established before such effective date, with respect to such services furnished to such individual after the calendar year in which such termination is effective; and

(c) In the case of items and services (other than those described in paragraphs (a) and (b) of this section) furnished on or after the effective date of such termination. (For example, outpatient hospital services.)

§ 405.616 Reinstatement of provider as participant after termination.

Where an agreement between a provider of services and the Secretary is terminated by the Secretary, such institution or agency may not file another agreement to participate in the health insurance benefits program unless the Secretary finds that the reason for the termination of the prior agreement has been removed and that there is reasonable assurance that it will not recur.

§ 405.617 Limitation; failure to make timely utilization review.

(a) If it is found that there is a substantial failure to make timely utilization review of long-stay cases in a hospital or extended care facility the Secretary may determine that no payment shall be made for inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) or for posthospital extended care services furnished an individual after the 20th day of a continuance period of such services.

(b) Before making any such determination to withhold payment as described in paragraph (a) of this section, notice shall be given to the provider of the intention to make such determination and will afford the institution or agency an opportunity for a hearing (see Subpart O of this part).

(c) The limitation described in paragraph (a) of this section, shall become effective as of the date specified in the determination and shall be applicable to services furnished to individuals admitted after such date. The limitation shall remain in effect until such date as the Secretary finds that:

(1) The reason for such limitation has been removed; and

(2) There is reasonable assurance that it will not recur.

§ 405.618 Disposition of incorrect collections.

Under the terms of the agreement between a provider and the Secretary (see § 405.607), a provider must make adequate provision for the return (or other disposition) of any moneys incorrectly collected from an individual or any other person on his behalf. The term "moneys incorrectly collected" means amounts in excess of the deductible or coinsurance, paid to a provider of services by an individual (or other person on his behalf) for items and services for which the individual is entitled to have payment made under the health insurance program. For purposes of this section, a payment by an individual to a provider which was proper when made, will be deemed to be an "incorrect collection," for which refund or other disposition must be made where the individual is retroactively entitled to hospital insurance benefits.

§ 405.619 Notice of charges and collections by a provider of services.

Where a provider of services collects moneys from a beneficiary or any other person on his behalf, for items and services furnished to the beneficiary, such provider shall inform the intermediary of such collection (see § 405.621).

§ 405.620 Return or other disposition of moneys incorrectly collected.

(a) *General.* A provider of services in possession of an incorrect collection (see § 405.618) is required to refund or set aside the money. Until such time as the provider returns or sets aside the incorrectly collected funds, an amount equal to such incorrect collections may be offset against the amounts otherwise due the provider.

(b) *Refund.* Refund is to be made to the beneficiary (including the estate of a deceased beneficiary), or any other person from whom the provider collected the moneys. If the individual to whom refund is to be made cannot be located, or is determined to have died, the provider is to make disposition of the moneys in accordance with the applicable State law.

(c) *Moneys set aside.* Where it appears that refund will be delayed indefinitely, the provider of services will so notify the intermediary and will then set the funds aside in a separate account identified as to the individual to whom the payment is due. These amounts will be carried on the provider's records in this manner until final disposition is made in accordance with the applicable State law.

(d) *Applicable State law.* The applicable State law means the law which would be applied by the courts of the State in which the hospital, extended care facility, or home health agency is located.

§ 405.621 Appropriate time limits within which provider action must be taken.

The incorrect collection should be refunded as promptly as possible. If refund cannot be made within 60 days after the date of notice to the provider that an incorrect collection was made, the funds must be set aside as described in § 405.620(c).

§ 405.651 Nomination of agency or organization as "intermediary"; contractual undertakings with intermediaries.

(a) Under section 1816 of the Act, groups of providers, or associations of providers, may nominate on behalf of the members of such group or association, a national, State, or other public or private agency or organization for the purpose of entering into an agreement with the Secretary providing for the determination of amounts payable under title XVIII, and the making of such payments, by such agency or organization to providers of services. A member of a group or association may, however, deal directly with the Secretary rather than through an intermediary. The nomination of an agency or organization by a group or association of providers of services (see § 405.653) shall not be binding on any member of such group or association if such member notifies the Secretary of its desire not to be bound by such nomination.

(b) In order to accomplish the objectives of the supplementary medical insurance benefits provisions described in Subpart B of this part, with maximum efficiency and convenience to both the enrollees and providers of services furnishing medical and other health services to them and, at the same time, to coordinate the implementation of hospital insurance benefits provisions (see Subpart A of this part), the Secretary may, in his discretion, contract with nominated agencies or organizations with which agreements discussed in paragraph (a) of this section are in effect, to perform all or some of the functions described in section 1842 of the Act; except that, such agencies or organizations (which otherwise do not qualify as a carrier described in § 405.671) are "carriers" with respect to providers of service only.

(c) In the performance of their contractual undertakings, the fiscal intermediaries act on behalf of the Secretary, carrying on for him the administrative responsibilities imposed by the law. The Secretary, however, is the real party in interest in the administration of the program and will endeavor to safeguard the interests of his contractual representatives with respect to their actions in the fulfillment of commitments under the agreements entered into by them with the Secretary.

(d) Contractual undertakings with intermediaries, pursuant to section 1842 of the Act, may be entered into without regard to section 3709 of the U.S. Revised Statutes or any other provision of law requiring competitive bidding.

§ 405.652 Nomination procedure.

The nomination of an agency or organization to determine the amount of and make payments to providers of services, must be made by an association or groups of providers of services, in writing to the Secretary and such writing shall:

(a) Identify the agency or organization being nominated; i.e., complete name and address;

(b) Include, or furnish as an attachment, the name, address, and bed capacity (or patient care capacity in the case of home health agencies) of each member of the group or association;

(c) List those members which have concurred in the nomination of such agency or organization; and

(d) Be signed by an authorized individual of such group or association.

§ 405.653 Nomination by providers of services; nonmembers or nonconcurring members of a group or association.

Providers of services which are not members of a group or association, and those providers of services not concurring in the nomination of their group or association may form a group of two or more individual providers of services for the specific purpose of nominating a national, State, or other public or private agency or organization and such nomination shall be made as discussed in § 405.652.

§ 405.654 Election to deal through a nominated agency or organization or to deal directly with the Secretary.

A provider which is not a member of a group or association which has nominated an intermediary or a nonconcurring member of a group or association of providers of services, may with the consent of the Secretary and an agency or organization which has entered into an agreement with the Secretary, elect such agency or organization to determine the amount of and make payment to such provider under the provisions described in Subpart A of this part or, elect to receive payment directly from the Secretary. This procedure is also available to any provider of services which has forwarded notice of intent to withdraw its concurrence in the nomination or its election of a particular agency or organization (see § 405.656).

§ 405.655 Notification of selection or nonselection of nominated agency or organization.

(a) The Secretary, upon selection or nonselection of a nominated agency or organization (see § 405.660), shall send written notice to each member of the nominating group or association of the selection or the nonselection of the nominated agency or organization. Any member of such group or association may elect, instead, to receive payment in accordance with the provisions discussed in § 405.654.

(b) Any member of a group or association having more than one nominated agency or organization approved and selected by the Secretary to act on its behalf shall be given the opportunity to withdraw from all but one of such nominations or, as provided in paragraph (a) of this section, to elect to receive payment in accordance with the provisions of § 405.654.

§ 405.656 Withdrawal of nomination or election.

(a) Any provider which has nominated an intermediary may, subject to the provisions of this section, withdraw its concurrence in the nomination or its election of such agency or organization. Notice of its intent to withdraw from its concurrence in the nomination or its election must be given to the Secretary at least 120 days prior to the end of such provider's current fiscal year. Concurrently with the notice to the Secretary, the provider shall also notify its intermediary of its intent to withdraw from its concurrence in the nomination or its election in order to elect another intermediary, or to deal directly with the Secretary. The notice of intent to withdraw must be signed by an authorized representative of such provider.

(b) Where the Secretary approves the withdrawal and election, the provider, the outgoing intermediary, and the newly elected intermediary will be advised that the election shall be effective on the first day following the close of the fiscal year in which it filed the timely withdrawal, or July 1, 1967, whichever is later.

§ 405.660 Criteria considered by Secretary in determining whether to enter into an agreement pursuant to section 1816 with a nominated agency or organization.

The Secretary may enter into an agreement with an agency or organization which has been nominated by a group or association of providers under the provisions of section 1816 of the Act, if the Secretary finds that:

(a) To do so would be consistent with effective and efficient administration of the hospital insurance benefits plan;

(b) Where the proposed agreement is to provide that the nominated agency or organization is to assist providers in the application of safeguards against unnecessary utilization of services under Subpart A of this part, such agency or organization is willing and able to provide such assistance;

(c) Such agency or organization agrees to furnish to the Secretary such of the information acquired by it in carrying out its agreement as the Secretary may find necessary for the proper administration of the hospital insurance benefits plan;

(d) The nominated agency or organization (or an agency or organization which is affiliated with such nominated agency or organization and which has undertaken by subcontract to perform the functions and obligations of such nominated agency or organization) meets all requirements as to solvency and financial responsibility imposed by the statutes and regulatory authorities of any State, or States in which it would serve;

(e) The nominated agency or organization has the overall resources and experience to administer effectively and efficiently the responsibilities it would undertake under the hospital insurance program and that such agency or organization has an existing operational, statistical, and recordkeeping capacity commensurate with the magnitude of the additional program responsibilities it proposes to assume. An agency's or organization's capacity to perform is presumed where such agency or organization has at least 5 years' experience in paying for or reimbursing the cost of health services. If an agency or organization has less than 5 years' experience but there is other evidence which clearly shows it has the capacity to perform such services, the Secretary will consider entering into an agreement with such nominated agency or organization;

(f) The nominated agency or organization serves a sufficient number of providers of services to permit a finding of effective and efficient administration of the hospital insurance program by the Secretary; except that:

(1) The Secretary may enter into an agreement with a nominated agency or organization servicing only a few providers of services if the Secretary finds it is in the best interest of the program to do so; and

(2) The selection of such agency or organization by the Secretary shall not be based exclusively on the number of providers of services such agency or organization will serve;

(g) The nominated agency or organization has an ongoing professional and institutional relationship that successful administration of the hospital insurance program will necessitate and that the extent and substance of these relationships will assure affirmative and effective cooperation with such agency or organization by the providers of services with whom it will deal, and by the physicians and medical societies in the area or areas it will serve;

(h) The nominated agency or organization has established a record of integrity and satisfactory service to the public; and

(i) The nominated agency or organization has personnel practices which reflect an affirmative equal employment opportunity program which is in compliance with the fair employment provisions of the Civil Rights Act of 1964 and Executive Order 11246.

§ 405.662 Termination by intermediary.

An intermediary which has entered into an agreement with the Secretary, may terminate such agreement at any time provided it gives 180 days notice of intention to terminate the agreement to the Secretary, and the providers of service receiving payment through such intermediary. In addition to giving notice to the Secretary and the providers of service, the intermediary will also notify the public of its intention to terminate its agreement with the Secretary by publishing, at least 180 days before the date of termination, a statement of the effective date of termination. Publication is to be in a newspaper of general circulation which serves each community in which a provider receiving payment through such intermediary is located.

§ 405.663 Termination by Secretary.

If the Secretary finds, after 60 days notice and opportunity for hearing to the intermediary, that:

(a) The intermediary has failed substantially to carry out the provisions of the agreement; or

(b) The continuation of some or all of the functions provided for in the agreement is disadvantageous or is inconsistent with the efficient administration of title XVIII of the Act, the Secretary may terminate the agreement at any time upon 120 days notice to the public, to the intermediary and to providers receiving payment through such intermediary.

§ 405.670 Contracts with carriers pursuant to section 1842; general.

In order to accomplish the objectives of the supplementary medical insurance benefits provisions described in Subpart B of this part, with maximum efficiency and convenience to both the enrollees and persons furnishing medical and other health services to them, the Secretary may enter into a contract, pursuant to section 1842 of the Act, with carriers (see § 405.671) to perform, in areas determined on the basis of geographical convenience, all or some of the functions as described in section 1842 of the Act as shall be specified in such contract. With respect to the performance of functions involving payments for services of physicians, the Secretary shall, to the extent possible, enter into such contracts with carriers. In the performance of their contractual undertakings, the carriers act on behalf of the Secretary, carrying on for him the administrative responsibilities imposed by the law. The Secretary, however, is the real party in interest in the administration of the program and will endeavor to safeguard the interests of his contractual representatives with respect to their actions in the fulfillment of commitments under the contracts entered into by them with the Secretary.

§ 405.671 Carrier; defined.

An organization is classified as a carrier for purposes of entering into a contract (see § 405.670) if it is:

(a) A voluntary association, corporation, partnership, or other nongovernmental organization which is lawfully engaged in providing, paying for, or reimbursing the cost of, health services under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar group arrangements, in consideration of premiums or other periodic charges payable to the carrier, including a health benefits plan duly sponsored or underwritten by an employee organization;

(b) A State agency, specified in an agreement to enroll welfare recipients under the supplementary medical insurance benefits plan, which administers, or supervises the administration of, the plan of such State approved under title I, XVI, or XIX of the Act.

§ 405.672 Competitive bidding for contract not required.

Contracts with carriers may be entered into without regard to section 3709 of the U.S. Revised Statutes or any other provision of law requiring competitive bidding.

§ 405.673 Carrier's ability to perform duties; financial responsibility; etc.

The Secretary shall not enter into a contract with any carrier unless the Secretary finds that such carrier will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as the Secretary finds pertinent.

§ 405.675 Termination of section 1842 contract by notice of nonrenewal.

Except as provided in § 405.676, a contract between the Secretary and a carrier shall terminate at the end of the last day of the term prescribed in the contract unless automatically renewable. An automatic renewal provision shall have the effect of continuing the contract from term to term in the absence of at least 90 days notice by either party to the contract of intention to terminate at the end of the current term.

§ 405.676 Termination of section 1842 contract by Secretary for cause.

The Secretary may terminate a contract with a carrier at any time if it is determined that the carrier has failed substantially to carry out any material terms of the contract or is carrying out the contract in a manner inconsistent with the efficient administration of the supplementary medical insurance benefits program. However, before a final determination of termination for cause is made, the Secretary shall give such carrier at least 60 days notice and opportunity for a hearing.

§ 405.677 Functions which a carrier may perform under contract with the Secretary.

A contract between the Secretary and a carrier may provide for the performance of some or all of the following functions:

(a) Determining the rates and amounts of payments required pursuant to the provisions described in Subpart B of this part to be made to providers of services and other persons on a reasonable cost basis (see Subpart D of this part) or reasonable charge basis (see Subpart E of this part) as may be applicable;

(b) Receiving, disbursing, and accounting for funds in making such payments;

(c) Auditing the records of providers of services, as necessary, to assure that proper payments are made under the provisions described in Subpart B of this part;

(d) Assisting providers of services and other persons who furnish services for which payment may be made under the supplementary medical insurance benefits provisions described in Subpart B of this part:

(1) In the development of procedures relating to utilization practices;

(2) In making studies of the effectiveness of such procedures and methods for their improvement;

(3) In the application of safeguards against unnecessary utilization of services furnished by providers of services and other persons to individuals entitled to supplementary medical insurance benefits (see Subpart B of this part); and

(4) In establishing procedures for, and assisting in arranging, where necessary, the establishment of groups outside hospitals to make reviews of utilization;

(e) Serving as a channel of communication of information relating to the administration of the supplementary medical insurance benefits provisions described in Subpart B of this part; and

(f) Otherwise assisting, in such manner as the contract may provide, in discharging administrative duties necessary to carry out the purposes of the supplementary medical insurance benefits program.

§ 405.678 Duties specifically required to be performed by a carrier.

A carrier which has entered into a contract with the Secretary shall:

(a) Take such action as may be necessary to assure that, where payment under the supplementary medical insurance benefits plan is on a cost basis, the cost is the reasonable cost as determined under the provisions discussed in Subpart D of this part;

(b) Take such action as may be necessary to assure that, where payment under the supplementary medical insurance benefits plan is on a charge basis (see Subpart E of this part):

(1) Such charge will be reasonable and not higher than the charge applicable for a comparable service and under comparable circumstances to the policyholders and subscribers of the carrier; and

(2) Such payment will be made on the basis of a receipted bill, or on the basis of an assignment (see Subpart R of this part) under the terms of which the reasonable charge is the full charge for the service;

(c) Furnish to the Secretary such timely information and reports as he may find necessary in performing his functions in the administration of the supplementary medical insurance benefits plan;

(d) Maintain such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of the information and reports under paragraph (c) of this section and otherwise to carry out the purposes of the supplementary medical insurance benefits plan;

(e) Establish and maintain procedures in accordance with Subpart O of this part, pursuant to which an individual enrolled under the supplementary medical insurance benefits plan, will be granted an opportunity for a fair hearing by such carrier when a request for payment is denied, or is not acted upon with reasonable promptness, or the amount of payment is in controversy; and

(f) Comply with such other terms and conditions as the Secretary may find necessary or appropriate for inclusion in the particular contract to which such carrier is a party.

§ 405.685 Agreements with States pursuant to section 1864; general.

The Secretary shall enter into an agreement with any State which is able and willing to do so, under which the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by the Secretary:

(a) For the purpose of assisting the Secretary in determining whether an institution situated in such State is a hospital (see Subpart J of this part), or extended care facility (see Subpart K of this part), or whether an agency is a home health agency (see Subpart L of this part), for purposes of title XVIII of the Act, or whether an independent laboratory meets the conditions for coverage of services of such laboratory (see Subpart M of this part). In making such certifications, the State agency shall undertake such surveys of institutions, agencies, and independent laboratories, and such other necessary supporting activities following such procedures and policies as the Secretary shall require from time to time.

(b) To provide consultative services by the State agency to institutions and agencies to assist such institutions and agencies to comply with the provisions of title XVIII of the Act.

2. *Effective date.* The addition of Subpart F to Part 405 of Chapter III, Title 20, shall be effective upon publication in the FEDERAL REGISTER.

[SEAL] ROBERT M. BALL,
Commissioner of Social Security.

NOVEMBER 13, 1967.

Approved: December 9, 1967.

WILBUR J. COHEN,
Acting Secretary of Health, Education, and Welfare.

[F.R. Doc. 67-14629; Filed, Dec. 15, 1967; 8:47 a.m.]

[20 CFR Part 405]

[Reg. 5]

HEALTH INSURANCE PROGRAM FOR THE AGED

Providers of Services and Independent Laboratories, Determinations and Appeals Procedures

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth below in tentative form are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations (§ 405.1501 et seq.) set forth the procedures for making and reviewing determinations with respect to whether an institution or agency is a provider of services (i.e., a hospital,

extended care facility, or home health agency) within the meaning of section 1861 (e)–(g), (j), or (o), as appropriate, of Title XVIII of the Social Security Act; the termination of the Secretary's agreement with a provider of services pursuant to section 1866(b)(2) of the Act; and whether a laboratory is, or continues to be, an independent laboratory within the meaning of section 1861(s) of the Act.

Prior to final adoption of the proposed regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed Federal Health Insurance for the Aged regulations are to be issued under the authority contained in sections 1102, 1866, 1869, 1871, 1872, 49 Stat. 647, as amended, 79 Stat. 327; 79 Stat. 330–332; 42 U.S.C. 1302, 1395 et seq.

[SEAL] ROBERT M. BALL,
Commissioner of Social Security.

NOVEMBER 13, 1967.

Approved: December 9, 1967.

WILBUR J. COHEN,
Acting Secretary of Health, Education, and Welfare.

Chapter III, Title 20 is amended by adding thereto Subpart O of Part 405 to read as follows:

Subpart O—Providers of Services and Independent Laboratories; Determinations and Appeals Procedures

§ 405.1501 Providers of services and independent laboratories; determinations and appeals procedures.

(a) The provisions contained in this Subpart O shall govern the procedures for making and reviewing determinations with respect to whether an institution or agency is a provider of services (i.e., a hospital, extended care facility, or home health agency) within the meaning of title XVIII of the Social Security Act and Subparts J, K, or L of this part, as appropriate; the termination of the Secretary's agreement with a provider of services; and whether a laboratory is, or continues to be, an independent laboratory within the meaning of title XVIII of the Social Security Act and Subpart M of this part.

(b) Any institution or agency dissatisfied with an initial determination (see § 405.1502) that it does not qualify as a provider of services may request the Administration to reconsider that determination (see § 405.1510). If dissatisfied with the reconsidered determination of the Administration, or with an initial determination terminating the Secretary's agreement with it, an institution or agency is entitled to a hearing thereon and, if dissatisfied with the Secretary's final decision after such hearing, to Appeals Council review and then judicial review of such decision (see § 405.1530 et seq.).

(c) Any laboratory dissatisfied with an initial determination (see § 405.1502) that it does not qualify as an independent laboratory may request the Administration to reconsider that determination (§ 405.1510). If dissatisfied with the reconsidered determination of the Administration, or where a determination has been made that it qualified as an independent laboratory, with an initial determination that it no longer qualifies, a laboratory may request a hearing thereon (see § 405.1530), and if dissatisfied with the decision of the hearing examiner may request Appeals Council review. A laboratory is not entitled to judicial review of the Secretary's final decision after such hearing and review.

(d) To be a participating provider of services, eligible for payment, a provider must be in compliance with Title VI of the Civil Rights Act of 1964 and must enter into an agreement with the Secretary under section 1866 of the Social Security Act (see Subpart F of this Part 405). The provisions of this Subpart O do not govern in any respect the adjudication of issues related to the compliance of an institution or agency with Title VI of the Civil Rights Act of 1964, or the implementing regulation (§ 80.1 et seq. of this title) issued by the Secretary of Health, Education, and Welfare.

§ 405.1502 Initial determinations.

The Administration will make findings, setting forth the pertinent facts and conclusions, and an initial determination with respect to:

(a) Whether an institution or agency is a provider of services within the meaning of title XVIII of the Social Security Act and the provisions set forth in Subpart J, Subpart K, or Subpart L of this part, as appropriate, if the institution or agency has filed a written request for such a determination;

(b) (1) Whether a laboratory is an independent laboratory within the meaning of title XVIII of the Social Security Act and Subpart M of this part, if the laboratory has filed a written request for such a determination; or

(2) Whether a laboratory continues to be an independent laboratory following such visit, resurvey, and/or certification by a State agency as is provided in § 405.1306 or § 405.1307 of this part, as appropriate; and

(c) The termination by the Secretary of an agreement with a provider of services, because the provider no longer meets the appropriate conditions of participation necessary to qualify as a provider, or for any other cause for termination by the Secretary described in the provisions in Subpart F of this part.

§ 405.1503 Notice of initial determination.

Written notice of an initial determination (see § 405.1502) with respect to whether an institution or agency is or is not a provider; or with respect to the termination of an agreement; or with respect to whether a laboratory is or is not an independent laboratory, will be mailed to the institution, agency, or laboratory concerned and will include the basis or reasons for the determination, and information concerning the appeal rights of the institution, agency, or laboratory (see §§ 405.1510 and 405.1530).

§ 405.1504 Effect of initial determination.

The initial determination shall be final and binding upon the parties to the determination unless it is revised (see § 405.1519), or unless, in the case of a determination described in § 405.1502 (a) or (b)(1), it is reconsidered in accordance with §405.1514 or, in the case of a determination described in § 405.1502 (b)(2) or (c), a request for a hearing is filed and a decision rendered.

§ 405.1505 Administrative actions which are not initial determinations.

Administrative actions which shall not be considered initial determinations under any provision of the regulations in this Subpart O include, but are not limited to, the following:

(a) The finding, in accordance with the provisions set forth in § 405.1005, § 405.1105, § 405.1205, or § 405.1305, as appropriate, that an institution or agency determined to be a provider has deficiencies with respect to one or more conditions of participation, or that an independent laboratory, determined to be in substantial compliance with the conditions, has deficiencies with respect to one or more conditions for coverage of services of independent laboratories.

(b) The finding that an institution or agency does not meet the conditions for participation as set out in Subpart J, Subpart K, or Subpart L of this part, as appropriate, but only where such institution or agency is nevertheless approved as a provider of services on the basis of a special access certification (see §§ 405.1010, 405.1110, and 405.1209).

(c) The refusal by the Secretary to accept for filing an agreement submitted by an institution or agency under the terms of section 1866 of the Social Security Act where such institution or agency is not in compliance with the provisions of Title VI of the Civil Rights Act of 1964.

§ 405.1510 Reconsideration; right to reconsideration.

Any institution, agency, or laboratory which is dissatisfied with an initial determination (see § 405.1502) that it does not qualify as a provider of services or independent laboratory, as appropriate, may request that the Administration reconsider the determination. The Administration will reconsider an initial determination if a written request for reconsideration is filed by the institution, agency, or laboratory concerned, as provided in § 405.1511.

§ 405.1511 Time and place of filing request for reconsideration.

(a) A request for reconsideration must be in writing (see § 405.1512) and should state the issues or findings of fact with which the institution, agency, or laboratory, as appropriate disagrees and the reasons for disagreement.

(b) The request for reconsideration must be filed within 6 months after the date of the mailing of the notice of the initial determination unless the time for filing is extended as provided in § 405.1518. The request is to be filed at an office of the Social Security Administration or with an employee of the Administration authorized to accept such requests at a place other than such office. A request for reconsideration which has been timely filed with the State agency that performed the survey and certification function will be considered to have been filed with the Social Security Administration.

§ 405.1512 Proper party for filing request for reconsideration.

The legal representative or other authorized official of the institution, agency, or laboratory which was a party to an initial determination shall file the request for reconsideration of such determination (see §§ 405.1510 and 405.1511).

§ 405.1513 Withdrawal of request for reconsideration.

A request for reconsideration may be withdrawn prior to the mailing of notice of the reconsidered determination (see § 405.1516) if a written request for withdrawal is filed with the Administration by the institution, agency, or laboratory which filed the request for reconsideration and the Administration approves the request.

§ 405.1514 Reconsidered determination.

When a request for reconsideration has been filed as provided in § 405.1511, the Administration shall reconsider the initial determination in question and the findings on which it was based. The Administration shall make a reconsidered determination affirming or revising, in whole or in part, the findings and determination in question (see § 405.1515).

§ 405.1515 Submission of evidence.

The Administration will receive in evidence any documents or written statements which are relevant and material to the matters at issue and which are submitted within a reasonable time after the filing of a request for reconsideration. The reconsidered determination will be based on the evidence considered in making the initial determination and whatever other written evidence may be submitted prior to the time of the reconsidered determination, taking into account facts relating to the status of the institution, agency, or laboratory, as of a date subsequent to the initial determination.

§ 405.1516 Notice of reconsidered determination.

Written notice of a reconsidered determination (see § 405.1514) will be mailed to the institution, agency, or laboratory concerned. The notice of the reconsidered determination will contain findings on conditions with respect to which the institution, agency, or laboratory fails to meet the requirements of the law and regulations, if such be the case, and a statement of the reasons for the determination, and will inform the institution, agency, or laboratory of its right to a hearing (see § 405.1530).

§ 405.1517 Effect of reconsidered determination.

The reconsidered determination shall be final and binding upon the parties to the determination unless it is revised in accordance with § 405.1519 or a hearing is requested in accordance with § 405.1530 and a decision rendered.

§ 405.1518 Extension of time to request reconsideration.

If a party to an initial determination desires to file a request for reconsideration after the time for filing has passed (see § 405.1511(b)), such party may file a petition with the Administration for an extension of the time. The petition shall be in writing and shall state the reasons why the request for reconsideration was not filed within the required time. For good cause shown, the Administration may extend the time for filing a request for reconsideration.

§ 405.1519 Revision of initial or reconsidered determination.

Except in the case of a determination that an institution or agency qualifies as a provider of services, an initial or reconsidered determination which is otherwise final under § 405.1504 or § 405.1517 may be reopened by the Administration upon its own motion within 12 months after the date of the notice of the initial determination (see § 405.1503). Notice of the reopening of a determination and any revision thereof shall be given to the institution, agency, or laboratory which was a party to the determination (see § 405.1520).

§ 405.1520 Notice of revision.

Written notice of the revision of an initial or reconsidered determination (see § 405.1519) will be mailed to the institution, agency, or laboratory which was a party to the determination. The notice of revision will state the basis or reasons for the revised determination and, if the determination be that a laboratory does not qualify as an independent laboratory, will contain findings on conditions with respect to which the laboratory fails to meet the requirements of the law and regulations and will inform the laboratory of its right to a hearing as provided in § 405.1530.

§ 405.1521 Effect of revised determination.

The revision of an initial or reconsidered determination (see § 405.1519) shall be final and binding upon the parties to the determination unless a request for a hearing is filed and a decision rendered.

§ 405.1530 Hearing; right to hearing.

After an initial and reconsidered determination that it does not qualify as a provider of services or an independent laboratory (see §§ 405.1502 (a) and (b) (1) and 405.1514); or after an initial determination described in § 405.1502 (b) (2) and (c); or after a revised determination described in § 405.1519, an institution, agency, or laboratory shall be entitled to a hearing with respect to such determination, if the representative of the institution, agency, or laboratory files a written request for a hearing as provided in § 405.1531.

§ 405.1531 Filing a request for a hearing; time and manner of filing.

(a) The request for a hearing shall be made in writing, signed by a proper official of the institution, agency, or laboratory concerned and filed at an office of the Administration, or with a hearing examiner or the Appeals Council of the Bureau of Hearings and Appeals. The request must be filed within 6 months after the date on which written notice of an initial determination provided for in § 405.1502 (b) (2) or (c), or a reconsidered or revised determination is mailed to the institution, agency, or laboratory (see §§ 405.1503, 405.1516, and 405.1520), except where the time is extended for "good cause" (see § 405.1569).

(b) The request for a hearing shall contain a statement as to the specific issues or findings of fact and conclusions of law in the preceding determination with which the institution, agency, or laboratory disagrees, and the basis for its contention that the specific issues and/or findings and conclusions were incorrect.

(c) The legal representative or any other authorized official of the institution, agency, or laboratory shall be a proper person to file the request for hearing.

§ 405.1532 Parties to the hearing.

The parties to the hearing shall be the institution, agency, or laboratory which was a party to the prior determination (see §§ 405.1502 (b) (2) and (c), 405.1514, and 405.1519) and the Bureau of Health Insurance. The Bureau of Health Insurance shall be represented at the hearing (see § 405.1543).

§ 405.1533 Hearing examiner.

The hearing provided for in this Subpart O shall be conducted by a hearing examiner designated by the Director, Bureau of Hearings and Appeals, or his delegate. In an appropriate case, the Director or his delegate may substitute another hearing examiner or designate, initially or by substitution, a member or members of the Appeals Council to conduct the hearing. The conduct of hearings shall be governed by this subpart.

§ 405.1534 Disqualification of hearing examiner.

No hearing examiner shall conduct a hearing in a case in which he is prejudiced or partial with respect to the institution, agency, or laboratory, or where he has any interest in the matter pending for decision before him. Notice of any objection which a party to the hearing may have to the hearing examiner who will conduct the hearing shall be made at the earliest opportunity. The hearing examiner shall consider the objection(s) and shall, in his discretion,

either proceed with the hearing or withdraw. If the hearing examiner withdraws, another hearing examiner shall be designated (see § 405.1533) to conduct the hearing. If the hearing examiner does not withdraw, the objecting party may, after the hearing, present his objections to the Appeals Council as reasons why he believes the hearing examiner's decision should be revised or a new hearing held before another hearing examiner.

§ 405.1535 Prehearing conference.

At any time after a request for a hearing has been received, but prior to the time of the hearing (see §§ 405.1540 and 405.1541) the hearing examiner may, in his discretion, call a prehearing conference for the purpose of delineating the issues in controversy, identifying the evidence and witnesses to be presented at the hearing, and obtaining stipulations accordingly. On the request of either party or on his own motion, the hearing examiner may adjourn the prehearing conference and reconvene at a later date.

§ 405.1536 Time and place of prehearing conference.

The hearing examiner shall fix a time and place for the prehearing conference, written notice of which shall be mailed to the parties not less than 10 days prior to the conference date. The notice shall inform the parties of the purpose of the prehearing conference and the issues sought to be resolved, stipulated to, or excluded. If a party has information which will involve additional issues for consideration at the prehearing conference, other than those set forth in the notice of determination (see §§ 405.1503, 405.1516, and 405.1520) and the institution's, agency's, or laboratory's request for hearing, timely notice should be given to the hearing examiner and the other party of such information. The hearing examiner may also raise any additional issues by including them in his notice of the prehearing conferences or during the conference.

§ 405.1537 Conduct of prehearing conference.

The prehearing conference shall be open to the representatives of the institution, agency, or laboratory and the representatives of the Bureau of Health Insurance, to their technical advisors, and to such other persons as the hearing examiner deems necessary or proper. The hearing examiner may accept the agreement of the parties as to those facts which are not in controversy and as to questions which have been resolved favorably to the institution, agency, or laboratory subsequent to the determination in dispute. The hearing examiner may accept the agreement of the parties as to the remaining issues to be resolved. The parties may be requested to indicate what witnesses will be present to testify at the hearing, the qualifications of such witnesses, and the nature of other evidence to be submitted.

§ 405.1538 Record of prehearing conference.

A record shall be made of all agreements and stipulations entered into at the prehearing conference. The record will be transcribed on the request of either party or the hearing examiner. The hearing examiner shall issue an order setting forth the results of the prehearing conference and including the agreements made by the parties as to facts not in controversy, the matters to be considered at the hearing and the issues to be resolved. Copies of the order shall be sent to all parties. The parties shall be granted 10 days in which to file their objections to the order, following which the hearing examiner shall settle the order.

§ 405.1539 Effect of prehearing conference.

The agreements entered into at the prehearing conference as to issues in controversy, facts stipulated to and evidence to be presented at the hearing shall be binding on all parties unless, in the discretion of the hearing examiner, facts are presented which would make the agreement unreasonable or inequitable.

§ 405.1540 Time and place of hearing.

The hearing examiner shall fix a time and place for the hearing, written notice of which shall be mailed to the parties to the hearing not less than 10 days prior to the scheduled date of hearing. The notice shall inform the parties of the general and specific issues to be resolved at the hearing.

§ 405.1541 Change of time and place for hearing.

The hearing examiner may change the time and place for the hearing (see § 405.1540) either on his own motion or at the request of a party for good cause shown. The hearing examiner may adjourn or postpone the hearing, or he may reopen the hearing for the receipt of additional evidence at any time prior to the mailing of notice of the decision in the case (see § 405.1557). Reasonable notice shall be given to the parties of any change in the time or place of hearing or of an adjournment or of a reopening of the hearing.

§ 405.1542 Hearing on new issues.

(a) On the application of either party, or on his own motion, the hearing examiner may give notice at any time after a request for hearing has been filed (see § 405.1531), but prior to the closing of the record, that he will consider any specific new issue which may affect the rights of the institution, agency, or laboratory, even though the Administration has not made an initial and reconsidered determination with respect to the issue and even though the issue arose after the request for hearing or prehearing conference: Except that, in the case of an initial determination described in § 405.1502 (b)(2) or (c), the hearing examiner shall not consider any issue which arose on or after (1) the effective date of the termination of an institution's or agency's agreement with the Secretary or (2) the date on which a laboratory is determined to no longer qualify as an independent laboratory. Notice of the time and place of the hearing on any new issue shall, unless waived (see § 405.1550), be given to the parties within the time and manner prescribed in § 405.1540. Upon giving of such notice, the hearing examiner shall, except as otherwise provided, proceed to hearing on such new issues in the same manner as he would on an issue in which an initial and reconsidered determination had been made by the Administration and a hearing request with respect thereto had been filed.

(b) On the application of either party, or on his own motion, in lieu of considering any new issue in the manner described in the preceding paragraph, the hearing examiner may remand the case to the Bureau of Health Insurance for consideration of the new issue and, where appropriate, a determination. Where necessary the hearing examiner may direct that the case be returned to him for further proceedings. See also § 405.1560.

§ 405.1543 Joint hearings.

When two or more institutions, agencies, or laboratories have requested hearings and the same or substantially similar matters are in issue, the hearing examiner may, if all parties agree, fix the same times and places for each prehearing conference or hearing and conduct all such proceedings jointly. Where joint hearings are held, a single record of the proceedings shall be made and a separate decision issued for each institution, agency, or laboratory.

§ 405.1544 Subpoenas.

When reasonably necessary for the full presentation of a case, the hearing examiner may upon his own motion, or upon the request of a party to the hearing, issue subpoenas for the attendance and testimony of witnesses and for the production of books, records, correspondence, papers, or other documents which are relevant and material to any matter in issue at the hearing. A party which desires the issuance of a subpoena shall, not less than 5 days prior to the time fixed for a hearing, file with the hearing examiner a written request therefor, designating the witnesses or documents to be produced, and describing the address and location thereof with sufficient particularity to permit such witnesses or documents to be found. The request for a subpoena shall state the pertinent facts which the party expects to establish by such witnesses or documents and whether such facts could be established by other evidence without the use of a subpoena. A subpoena issued under the provisions of this section shall be issued in the name of the Secretary of Health, Education, and Welfare. The Social Security Administration shall pay the cost of the issuance and the fees and the mileage of any witnesses so subpoenaed, as provided in section 205(d) of the Act.

§ 405.1545 Conduct of the hearing.

The hearing shall be open to the representatives of the institution, agency, or laboratory and the representatives of the Bureau of Health Insurance, their technical advisors, and to such other persons as the hearing examiner deems necessary or proper. The hearing examiner shall inquire fully into all of the matters at issue (see §405.1542) and shall receive in evidence the testimony of witnesses and any documents which are relevant and material to such matters. If the hearing examiner believes that there is relevant and material evidence available which has not been presented at the hearing, the hearing examiner may at any time prior to the mailing of notice of the decision, reopen the hearing for the receipt of such evidence. The order in which the evidence and the allegations shall be presented and the conduct of the hearing shall be at the discretion of the hearing examiner.

§ 405.1546 Evidence.

Evidence may be received at the hearing even though inadmissible under the rules of evidence applicable to court procedure. The hearing examiner shall rule on the admissibility of evidence.

§ 405.1547 Witnesses.

Witnesses at the hearing shall testify under oath or affirmation. The representative of each party shall be permitted to examine his own witnesses subject to interrogation by the representative of the other party. The hearing examiner may ask such questions as he deems necessary. He shall rule upon any objection made by either party as to the propriety of any question.

§ 405.1548 Oral and written summation.

The parties to a hearing shall be allowed a reasonable time for the presentation of an oral summation and for the filing of briefs or other written statements of proposed findings of fact and conclusions of law. Copies of any briefs or other written statements shall be sent in accordance with § 405.1595.

§ 405.1549 Record of hearing.

A complete record of the proceedings at the hearing shall be made and transcribed in all cases.

§ 405.1550 Waiver of right to appear and present evidence.

If the institution, agency, or laboratory waives its right to appear before the hearing examiner and present testimony, it shall not be necessary for the hearing examiner to give notice of and conduct an oral hearing. A waiver of this right shall be made in writing and filed with the hearing examiner. A waiver may be withdrawn by an institution, agency, or laboratory, for good cause shown, at any time prior to the mailing of notice of the decision in the case. Even though an institution, agency, or laboratory has filed a waiver of a hearing before a hearing examiner, the hearing examiner may, nevertheless, give notice of a time and place and conduct a hearing if he believes that testimony of the representatives of the institution, agency, or laboratory or other persons is needed to clarify the facts in issue, or on a showing of good cause by the Bureau of Health Insurance of the need to present oral evidence. When such a wavier has been filed and no testimony received, the hearing examiner shall make a record of the relevant written evidence, including applications, written statements, certificates, affidavits, reports, and other documents which were considered in connection with the initial, reconsidered, or revised determination (see §§ 405.1502, 405.1514, and 405.1519), and whatever additional relevant and material evidence was submitted by the parties for consideration by the hearing examiner. Any additional evidence submitted by either party shall be furnished to the other party and that party shall be given a reasonable opportunity to submit further evidence in rebuttal. The parties may submit briefs or other written statements of evidence and/or proposed findings of fact or conclusions of law, copies of which shall be sent in accordance with § 405.1595. After the hearing examiner sets the case for oral hearing and gives notice of the time and place set for the hearing, the request for hearing shall be dismissed in accordance with § 405.1552 where the institution, agency, or laboratory fails to appear without good cause.

§ 405.1551 Dismissal of request for hearing; by application of an institution, agency, or laboratory.

The hearing examiner, at any time prior to the mailing of notice of the decision (see § 405.1557), may dismiss a hearing request where a party withdraws its request for a hearing or where the institution, agency, or laboratory asks that its request be dismissed. An institution, agency, or laboratory may request a dismissal by filing a written notice with the hearing examiner.

§ 405.1552 Dismissal by abandonment.

The hearing examiner may dismiss a request for hearing upon its abandonment by the institution, agency, or laboratory on whose behalf it was filed. An institution, agency, or laboratory may be deemed to have abandoned a request for hearing if the representative or proper official does not appear at the prehearing conference or hearing and prior to that time has not shown good cause as to why he could not appear; or, within 10 days after the mailing of a notice to the representative by the hearing examiner to show cause, did not show good cause for failing to appear or to notify the hearing examiner prior to the time for the prehearing conference or hearing that he could not appear.

§ 405.1553 Dismissal for cause.

On his own motion, or on the motion of a party to the hearing, the hearing examiner may dismiss a hearing request either entirely or as to any stated issue, under any of the following circumstances:

(a) *Res judicata.* Where there has been a previous determination or decision by the Secretary with respect to the rights of the same institution, agency, or laboratory on the same facts and law pertinent to the same issue or issues which has become final either by judicial affirmance or, without judicial consideration, upon failure of the institution, agency, or laboratory timely to request reconsideration, hearing, or review, or to commence a civil action with respect to such determination or decision.

(b) *No right to hearing.* Where the party requesting a hearing is not a proper party (see § 405.1531(c)) or does not otherwise have a right to a hearing.

(c) *Hearing request not timely filed.* Where an institution, agency, or laboratory has failed to file a hearing request timely and the time for filing such request has not been extended.

§ 405.1554 Notice of dismissal and right to request review thereof.

Notice of the hearing examiner's dismissal action shall be mailed to the parties. Such notice shall advise the institution, agency, or laboratory of its right to request review by the Appeals Council as provided in §§ 405.1561 and 405.1562.

§ 405.1555 Effect of dismissal.

The dismissal of a request for hearing shall be final and binding unless vacated (see § 405.1556).

§ 405.1556 Vacation of dismissal of request for hearing.

On the request of a party filed within 60 days of the date of the mailing of the notice of dismissal, a hearing examiner or the Appeals Council may, for good cause shown, vacate any dismissal of a request for hearing.

§ 405.1557 Hearing examiner's decision.

As soon as practical after the close of the hearing, the hearing examiner shall issue a decision in the case. The decision shall be based upon the evidence of record. The decision shall be made in writing and contain separate numbered findings of fact and conclusions of law. A copy of the decision shall be mailed to the parties.

§ 405.1558 Effect of hearing examiner's decision.

The hearing examiner's decision shall be final and binding unless reviewed by the Appeals Council or unless it is revised in accordance with § 405.1570.

§ 405.1559 Removal of hearing to the Appeals Council.

The Appeals Council on its own motion may, prior to receipt of oral testimony before a hearing examiner, remove to itself any pending request for a hearing. Any hearing on any matter so removed to the Appeals Council shall be conducted in accordance with the requirements of this subpart governing a hearing before a hearing examiner. Notice of such removal shall be mailed to each party.

§ 405.1560 Remand by the hearing examiner.

At the request of the Bureau of Health Insurance and with the written or on the

record concurrence of the other party to the hearing, the hearing examiner may remand any case properly before him to the Bureau of Health Insurance for a determination satisfactory to such other party. Such remand may be made at any time after the request for hearing and before mailing of the notice of decision.

§ 405.1561 Right to request a review of hearing examiner's decision or dismissal.

If the hearing examiner has issued a decision or dismissed a request for hearing, either of the parties thereto (see § 405.1532) may request the Appeals Council to review the decision or dismissal. The hearing examiner shall notify the parties of their right to request review by the Appeals Council of the decision or dismissal and the manner of making the request.

§ 405.1562 Time and place of filing requests for review.

(a) The request for review shall be made in writing and filed with the Appeals Council. The request shall be accompanied by whatever additional documents or other evidence the requesting party desires the Appeals Council to consider in its review and must be filed within 60 days from the date of mailing notice of the hearing examiner's dismissal or decision except where the time is extended for good cause.

(b) A request for review of a hearing examiner's decision shall contain a statement as to the specific issues or findings of fact and conclusions of law in the decision with which the party disagrees and the basis for its contention that the specific issues and/or findings or conclusions were incorrect.

§ 405.1563 Action by the Appeals Council on request for review.

The review or denial of review of the hearing examiner's decision shall be conducted by a panel of at least two members of the Appeals Council designated by the Chairman or Deputy Chairman and one person from the U.S. Public Health Service designated by the Surgeon General, Public Health Service, Department of Health, Education, and Welfare, or his delegate. Except as provided in § 405.1568, the Appeals Council shall review the hearing examiner's decision or dismissal where an institution, agency, or laboratory files a request for review. The Appeals Council may dismiss, deny, or grant a request for review filed by the Bureau of Health Insurance. If review is granted, the Appeals Council may either modify, affirm, or reverse the hearing examiner's decision. Notice of the action by the Appeals Council shall be mailed to the institution, agency, or laboratory and the Bureau of Health Insurance.

§ 405.1564 Procedures before the Appeals Council on review.

The parties shall be given, upon request, a reasonable opportunity to file briefs or other written statements as to fact and law and to appear before the Appeals Council for the purpose of presenting evidence or oral arguments. Copies of any brief or other written statements shall be sent in accordance with § 405.1595.

§ 405.1565 Evidence admissible on review.

Evidence in addition to (a) that introduced at the hearing before the hearing examiner, or (b) documents before the hearing examiner where such hearing was waived, may not be admitted except where it appears to the Appeals Council that the evidence is relevant and material to an issue before it. Where it appears to the Appeals Council that additional relevant material is available, the Appeals Council shall require the production of such evidence. Before additional evidence is admitted into the record, notice that evidence will be received with respect to certain issues shall be mailed to the parties, and each party shall be given a reasonable opportunity to comment thereon and to present other evidence which is relevant and material to the issues unless such notice is waived. Where the additional evidence is presented orally to a member of the Appeals Council, a transcript shall be made available to any party upon request.

§ 405.1566 Decision of the Appeals Council or remanding of case.

(a) When the Appeals Council reviews a hearing examiner's decision or order of dismissal, or if the case has been remanded by a court for further proceedings by the Secretary, the Appeals Council may either issue a decision or remand the case to a hearing examiner for a hearing and decision or recommended decision, which decision may be further reviewed as provided in this Subpart O.

(b) In a case remanded to a hearing examiner, the hearing examiner shall initiate such additional proceedings and take such other actions as directed by the Appeals Council in its order of remand and he may take any additional action not inconsistent with the order of remand. Upon completion of all action called for by the order of remand and any other action initiated by the hearing examiner, the hearing examiner shall promptly make a decision (see § 405.1557) or, as directed by the Appeals Council, certify the case with a recommended decision to the Appeals Council for its decision. The parties shall have 20 days from the date of the notice of a recommended decision in which to submit any exception, objection and comment on the findings of fact, conclusions of law and recommended decision of the hearing examiner to the Appeals Council. Following the expiration of the 20 days, the Appeals Council will issue its decision adopting, confirming, modifying, or rejecting the recommended decision of the hearing examiner.

(c) Where the case is not remanded to a hearing examiner, the decision of the Appeals Council shall be based upon the evidence received into the hearing record and such further evidence as the Appeals Council may receive. This decision shall be made in writing and contain separate numbered findings of fact and conclusions of law. A copy of the decision shall be mailed to each party.

§ 405.1567 Effect of the Appeals Council decision.

The decision of the Appeals Council shall be final and binding unless a civil action (see § 405.1501(b)) is filed by the institution or agency in a district court of the United States as authorized by section 1869(c) of the Act or unless the decision is revised in accordance with § 405.1570.

§ 405.1568 Dismissal by Appeals Council.

The Appeals Council may dismiss a request for review in any of the following circumstances:

(a) *Upon request of party.* Proceedings pending before the Appeals Council may be discontinued and dismissed upon written appliction of the party which filed the request for review.

(b) *Request for review not timely filed.* Request for review of a hearing examiner's dismissal or decision shall be dismissed when the party has failed to file a request for review within the time specified and good cause was not established in accordance with § 405.1569 for such failure to file.

(c) *Where the hearing examiner could have dismissed.* The hearing examiner's decison may be set aside and the request for hearing dismissed for any reason for which it could have been dismissed by the hearing examiner.

§ 405.1569 Extension of time to request a hearing or review or begin civil action.

Any institution, agency, or laboratory which is a party to an initial determination described in § 405.1502 (b)(2) or (c); or to a reconsidered determination that it does not qualify as a provider of services or an independent laboratory; or to a revised determination described in § 405.1519; or which is a party to a decision of a hearing examiner may request an extension of time for filing a request for hearing or review, as the case may be, although the time for filing the request has passed. If an extension of time for filing a request for hearing before a hearing examiner is sought, the request may be filed with the hearing examiner. In any other case, the request shall be filed with the Appeals Council. The request shall be in writing and shall state the reasons why the request was not filed within the required time. An institution or agency which is a party to a decision of the Appeals Council, may ask the Appeals Council for an extension of time for commencing civil action in a district court within 60 days from the date of the notice of the Appeals Council action and shall state the reasons an extension is required. For good cause shown, the hearing examiner may extend the time for filing a request for hearing or the Appeals Council may extend the time for filing a request for review or civil action.

§ 405.1570 Reopening decisions of a hearing examiner or the Appeals Council.

A decision of a hearing examiner or of the Appeals Council which is otherwise final under § 405.1558 or § 405.1567 may be reopened within 60 days from the date of mailing notice of the decision by the hearing examiner or Appeals Council. Upon the motion of the hearing examiner or the Appeals Council, as the case may be, or upon the petition of any party to a hearing, the decision of a hearing examiner may be reopened by such hearing examiner, or by another hearing examiner if the hearing examiner who issued the decision is unavailable, or by the Appeals Council within the time prescribed above. A decision of the Appeals Council may be reopened only by the Appeals Council. For the purposes of this paragraph, a hearing examiner shall be considered to be unavailable if, among other circumstances, he has died, terminated his employment, is on leave of absence, has had a transfer of official station, or is unable to conduct a hearing because of illness.

§ 405.1571 Notice of revision.

(a) Where a hearing examiner or the Appeals Council proposes to revise a decision under § 405.1570, and the revision would be based on evidence not included in the record on which the said decision was based, the parties shall be given notice of the hearing examiner's or the Appeals Council's proposal to revise such decision, and unless hearing is waived, a hearing with respect to the proposed revision shall be granted as provided in this Subpart O.

(b) If a revised decision is necessary, it shall be rendered by the hearing examiner or the Appeals Council, as appropriate, on the basis of the entire record. If the decision is revised by a hearing examiner, either party thereto may request review by the Appeals Council or the Appeals Council may review the decision on its own motion.

(c) When any decision of a hearing examiner or of the Appeals Council is revised, notice of the revision shall be mailed to the parties to the decision. The notice shall state the basis for the revised decision and inform the parties of the right to Appeals Council review or judicial review as appropriate.

§ 405.1572 Effect of revised determination.

A revised decision by a hearing examiner shall be final and binding upon the parties thereto unless reviewed by the Appeals Council in accordance with §§ 405.1561–405.1563. A revised decision by the Appeals Council shall be final and binding unless a civil action (see § 405.1501(b)) is filed by the institution or agency in a district court of the United States as authorized by section 1869(c) of the Act.

§ 405.1590 Representation.

An institution, agency, or laboratory may appoint as its representative any individual except an individual disqualified or suspended from acting as a representative in proceedings before the Social Security Administration or otherwise prohibited by law. Except where the representative appointed is an attorney, an institution, agency, or a laboratory must give written notice of the appointment of a representative. The notice of appointment shall be filed at an office of the Administration, or with the hearing examiner or the Appeals Council. Where the representative appointed is an attorney, in the absence of information to the contrary, his representation that he has the authority to represent the party shall be accepted as evidence of his authority.

§ 405.1591 Authority of representatives.

A representative appointed and qualified as provided in § 405.1590 may accept or give on behalf of the party he represents any request or notice relative to any proceedings before the Social Security Administration under title XVIII of the Act including reconsideration, hearing and review. A representative shall be entitled to present evidence and allegations as to facts and law in any proceeding affecting the party he represents and to obtain information with respect to the claim of the party to the same extent as the party. Notice to any party of any administrative action, determination or decision, or a request to any party for the production of evidence, may be sent to the representative of the party, and the notice or request shall have the same force and effect as if it had been sent to the party represented.

§ 405.1592 Fees for services.

Fees for any services rendered by a representative appointed and qualified as in §§ 405.1590 and 405.1591 on behalf of any institution, agency, or laboratory shall not be subject to the provisions of section 206 of title II of the Social Security Act.

§ 405.1593 Cost of transcript.

On the request of a party, a transcript of the agreements and stipulations made at the prehearing conference, or a transcript of the hearing before a hearing examiner, or before the Appeals Council, as the case may be, will be prepared and sent to the requesting party upon the payment of cost, or if the cost is not readily determinable, the estimated amount thereof, unless for good cause such payment is waived by the hearing examiner or the Appeals Council as the case may be.

§ 405.1594 Notice.

When, in accordance with the provisions of this Subpart O, a notice is required to be sent to the parties, the notice shall be sent to the parties and/or their representative(s).

§ 405.1595 Filing of briefs or other related statements.

Any brief, written argument, contention, suggested finding of fact, or conclusion of law, or any other related written statement shall be filed, in person or by mail (original and one copy), with the hearing examiner or Appeals Council, as appropriate, with a statement certifying that a copy has been mailed to the other party. The other party shall have 20 days from the date of mailing to submit any rebuttal statement or additional evidence. Where the party does submit a rebuttal statement or additional evidence an original and one copy shall be filed with the hearing examiner or the Appeals Council and a copy sent to the other party. The hearing examiner shall grant an opportunity to reply to the rebuttal statement only upon a showing of good cause.

[F.R. Doc. 67-14628; Filed, Dec. 15, 1967; 8:47 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 67-CE-148]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Mattoon, Ill.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Since designation of the Mattoon, Ill., control zone and transition area, two public use instrument approach procedures for Coles County Memorial Airport, Mattoon, Ill., have been modified. In addition, the existing special ADF instrument approach procedure for this airport is not presently protected with controlled airspace designation. Also

there is insufficient controlled airspace in the Mattoon area to contain the primary airline direct routes into and out of Coles County Memorial Airport. Therefore, it is necessary to alter the Mattoon control zone and transition area to provide controlled airspace protection for aircraft executing the modified public use instrument approach and the special instrument approach procedures and operating via these airline direct routes.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

1. In § 71.171 (32 F.R. 2071), the following control zone is amended to read:

MATTOON, ILL.

Within a 5-mile radius of Coles County Memorial Airport (latitude 39°28'45" N., longitude 88°17'05" W.); within 2 miles each side of the Mattoon VOR 060° radial, extending from the 5-mile radius zone to 8 miles northeast of the VOR; within 2 miles each side of the Mattoon VOR 229° radial, extending from the 5-mile radius zone to 8 miles southwest of the VOR; and 2 miles each side of the 128° bearing from Coles County Memorial Airport, extending from the 5-mile radius zone to 8 miles southeast of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airmans Information Manual.

2. In § 71.181 (32 F.R. 2148), the following transition area is amended to read:

MATTOON, ILL.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Coles County Memorial Airport (latitude 39°28'45" N., longitude 88°17'05" W.); within 2 miles each side of the Mattoon VOR 060° radial, extending from the 6-mile radius area to 8 miles northeast of the VOR; within 2 miles each side of the 128° bearing from Coles County Memorial Airport, extending from the 6-mile radius area to 8 miles southeast of the airport; and within 5 miles northwest and 8 miles southeast of the Mattoon VOR 220° radial, extending from the VOR to 12 miles southwest of the VOR; and that airspace extending upward from 1,200 feet above the surface within the area bounded on the north by V-50, on the east by longitude 88°00'00" W., on the south by V-14 and on the west by V-313, excluding the area which overlies the Decatur, Ill., transition area.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on November 30, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67-14619; Filed, Dec. 15, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-CE-144]

CONTROL ZONE AND TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a control zone and transition area at Havre, Mont.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Two VOR public use instrument approach procedures have been developed to serve City-County Airport, Havre, Mont., which will utilize a State-owned VOR facility to be installed on the airport, as a navigational aid. In addition, the existing special ADF instrument approach procedure for this airport, which utilizes a private radio beacon on the airport as a navigational aid, is not presently contained within controlled airspace. Therefore, it is necessary to designate a control zone and transition area at Havre, Mont., to provide controlled airspace protection for aircraft executing these public and special instrument approach procedures.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

1. In § 71.171 (32 F.R. 2071), the following control zone is added:

HAVRE, MONT.

Within a 5-mile radius of City-County Airport (latitude 48°32'40" N., longitude 109°45'40" W.); within 2 miles each side of the 287° bearing from City-County Airport, extending from the 5-mile radius zone to 8 miles west of the airport; within 2 miles each side of the 080° bearing from City-County Airport, extending from the 5-mile radius zone to 8 miles east of the airport, and within 2 miles each side of the 261° bearing from City-County Airport, extending from the 5-mile radius zone to 8 miles west of the airport.

2. In § 71.181 (32 F.R. 2148), the following transition area is added:

HAVRE, MONT.

That airspace extending upward from 700 feet above the surface within a 13½ mile radius of City-County Airport (latitude 48°-32'40" N., longitude 109°45'40" W.).

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on November 30, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67-14622; Filed, Dec. 15, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-SW-87]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the El Dorado, Ark., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

As a result of the development of a new public use instrument approach procedure to serve Goodwin Field, El Dorado, Ark., it is necessary to alter the El Dorado transition area to provide airspace protection for aircraft executing

this approach procedure. Additionally, it is planned to cancel the 1,200-foot portion of this transition area and incorporate it within the description of the proposed Crossett, Ark., transition area.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation regulations as hereinafter set forth:

In § 71.181 (32 F.R. 2181) the El Dorado, Ark., transition area is amended to read:

EL DORADO, ARK.

That airspace extending upward from 700 feet above the surface within 5 miles southeast and 8 miles northwest of the El Dorado VORTAC 059° radial (052° magnetic), extending from the VORTAC to 12 miles northeast; within 5 miles each side of the 239° radial (232° magnetic), extending from the VORTAC to 5 miles southwest; and within 2 miles each side of the 236° radial (229° magnetic), extending from the VORTAC to 18 miles southwest.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Fort Worth, Tex., on December 4, 1967.

A. L. COULTER,
Acting Director, Southwest Region.

[F.R. Doc. 67-14621; Filed, Dec. 15, 1967; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-CE-139]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Osceola, Wis.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

A public use instrument approach procedure has been developed to serve the Osceola, Wis., Municipal Airport utilizing a planned radio beacon to be located on the airport as a navigational aid. Consequently, it is necessary to designate a transition area at Osceola, Wis., to provide protection for aircraft that will be executing this approach procedure. The proposal will become effective upon completion of the radio beacon installation and when controlled airspace has been designated for its protection.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (32 F.R. 2148) the following transition area is added:

OSCEOLA, WIS.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Osceola Municipal Airport (latitude 45°-18'45" N., longitude 92°41'45" W.); and within 2 miles each side of the 114° bearing from Osceola Municipal Airport, extending from the 6-mile radius area to 8 miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within 5 miles southwest and 8 miles northeast of the 114° bearing from Osceola Municipal Airport, extending from the airport to 12 miles southeast of the airport.

This amendment is proposed under the authority of section 307(a) of Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on November 30, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67-14623; Filed, Dec. 15, 1967; 8:46 a.m.]

[14 CFR Part 75]

[Airspace Docket No. 67-CE-135]

JET ROUTE

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 75 of the Federal Aviation Regulations that would realign the segment of Jet Route No. 102 from Lamar, Colo., to Salina, Kans. This realigned jet route segment would permit route continuity for flight planning and reduce additional radar vectoring for high altitude traffic desiring to be routed direct between Salina and Lamar.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Building, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on December 11, 1967.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 67-14620; Filed, Dec. 15, 1967; 8:46 a.m.]

Office of the Secretary

[49 CFR Part 239]

[OST Docket No. 8; Notice 4(a)]

STANDARD TIME ZONE BOUNDARIES

Kansas; Request for Additional Comments

By notice published in the FEDERAL REGISTER on August 9, 1967 (32 F.R. 11479), the Department of Transportation proposed that the entire State of Kansas be included within the central standard time zone. The proposal was made pursuant to a petition from the Governor and Legislature of Kansas to that effect. The notice stated that consideration would be given to all comments received on or before October 20, 1967.

The responses received as a result of the original notice are considered to be an insufficient basis for arriving at a final determination of the issue. The Department of Transportation has therefore determined that reissuance of the notice of proposed rule making to solicit additional comments would serve the interests of the citizens of Kansas by providing a more comprehensive record than that compiled to date.

The Department is authorized to modify the limits of time zones "having regard for the convenience of commerce and the existing junction points and division points of common carriers engaged in interstate or foreign commerce." The Department will consider the timely comments of all interested persons, and makes specific mention of those counties in northwestern Kansas which would be moved from mountain standard time into central standard time if this proposal is made final. It is the low volume of response from this northwestern section of the State which is primarily responsible for the issuance of this second notice.

Section 239.5(d) of Title 49 of the Code of Federal Regulations describes the present boundary between the mountain standard time zone and the central standard time zone, in pertinent part, as follows:

From the point last described (the intersection of the township lines between townships 17 and 18, west of the sixth principal meridian on the boundary line of Kansas and Nebraska), in a southerly direction through Phillipsburg, Stockton, and Plainville to Ellis, crossing in said course the Chicago, Rock Island & Pacific Railway at Phillipsburg, the Missouri Pacific Railroad near Glade, and the Union Pacific Railroad at Plainville and Ellis; thence south along the west line of Ellis County and the east line of Ness County to the northeast corner of Hodgeman County, crossing in said course the Missouri Pacific Railroad near McCracken and the Santa Fe near Alexander; thence west along the north line of Hodgeman County to the 100° meridian, west; thence south along said meridian to a point north of Dodge City; thence along the north and west boundary of Dodge City to the fifth standard parallel, south; thence westerly along said parallel and the southern boundary lines of Finney, Kearney, and Hamilton Counties to the Kansas-Colorado border; thence south along the border between Kansas and Colorado to the intersection of the boundary between such States with the boundary line of Oklahoma.

Under this proposal § 239.5(d) would be amended to move the boundary between the mountain standard time zone and the central standard time zone west, and make it coincide with the western boundary of the State of Kansas.

In consideration of the foregoing, it is proposed that § 239.5(d) (formerly § 139.5(d)) of Title 49 of the Code of Federal Regulations be amended to include the entire State of Kansas within the U.S. central standard time zone.

Communications should identify the regulatory docket or notice number (see above) and be submitted in duplicate to: Docket Clerk; Office of the General Counsel; Department of Transportation; 800 Independence Avenue SW.; Washington, D.C. 20590.

Communications received on or before January 31, 1968, and all other petitions and communications received before the date of this notice, will be considered by the Department before taking final action on the petition. All docketed comments from this notice and the prior notice will be available for examination by interested persons, both before and after the closing date for comments.

These proceedings do not concern adherence to or exemption from advanced (daylight saving) time during the summer months. The Uniform Time Act requires observance of advanced time within established time zones from the last Sunday in April to the last Sunday in October, but permits an individual State to exempt itself, by law, from observing advanced time within the State.

This proposal is issued under the authority of the Act of March 19, 1918, ch. 24, as amended by the Uniform Time Act of 1966 (15 U.S.C. 260–267); section 6 (e)(5) of the Department of Transportation Act (80 Stat. 939, 49 U.S.C. 1655); and 49 CFR Part 5.

Issued in Washington, D.C., on December 12, 1967.

JOHN E. ROBSON,
General Counsel.

[F.R. Doc. 67-14617; Filed, Dec. 15, 1967; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-8209]

OWNERSHIP OF MORE THAN 10 PERCENT OF CLASS OF EQUITY SECURITIES

Proposed Amendment

DECEMBER 6, 1967.

Notice is hereby given that the Securities and Exchange Commission has under consideration the proposed amendment of Rule 16a–2 (17 CFR 240.16a–2) under the Securities Exchange Act of 1934. This rule deals with the determination of when a person is the beneficial owner, directly or indirectly, of more than 10 percent of a class of equity securities for the purpose of reporting the ownership of such securities, or changes therein, pursuant to section 16(a) of the above Act.

The proposed amendment would add a new paragraph to the rule which would provide that, for the purpose of determining whether a person is the beneficial owner of more than 10 percent of any class of equity securities, he shall be deemed to be the beneficial owner of securities of that class which he has the right to acquire through the exercise of presently exercisable options, warrants or rights or through the conversion of presently convertible securities. Securities subject to such options, warrants, rights, or conversion privileges would be deemed outstanding for the purpose of computing the percentage of the class owned by such person but would not be deemed outstanding for the purpose of computing the percentage of the class owned by any other person.

The proposed amendment reflects the Commission's belief that the immediate right to acquire equity securities gives the holder of such right much the same ability to influence the management of the company and to have access to inside information as would ownership of the underlying equity security, and that such right is a fact of which stockholders and investors should be apprised. An interest in the security such as the right to acquire it at a determined price and manner is a material part of the bundle of rights in the security and ownership of such an interest should be deemed a beneficial ownership of the underlying security for the purposes of section 16(a) of the Act.

The Commission has previously recognized the importance of reporting rights to acquire securities. For example, the Commission's Rule 16a–6 (17 CFR 240.16a–6) and Forms 3 (17 CFR 249.103) and 4 (17 CFR 249.104) presently require persons otherwise filing ownership reports to report their transactions in transferable options to purchase any equity security of the issuer. Moreover, Rule 16a–6 and the ownership report forms as proposed to be amended January 20, 1966, by Exchange Act Releases 7794 and 7795 (31 F.R. 1247, Feb. 1, 1966), would, among other changes, require that transactions in options be reported whether or not the options are transferable.

Under the present Rule 16a–2 the Commission has taken the position that ownership reports are required for persons owning in excess of 10 percent of a class of registered securities convertible into equity securities of the issuer. Although the U.S. Court of Appeals for the Second Circuit has held in Chemical Fund v. Xerox Corp., 377 F. 2d 107 (1967) that such a class should not be considered a separate class of equity securities for the purposes of determining liabilities for short-swing profits under section 16(b), the Commission does not believe, in light of the differing purposes of section 16(a), that that decision was determinative of the obligation to file ownership reports. The Commission, therefore, will continue to take the position that reports are required of person holding 10 percent of a class of registered securities convertible into equity securities.

The text of the rule as proposed to be amended is set forth below:

§ 240.16a–2 Ownership of more than 10 percent of a class of equity securities.

(a) In determining for the purpose of section 16(a) of the Act, whether a person is the beneficial owner, directly or indirectly, of more than 10 percent of any class of equity securities, such class shall be deemed to consist of the total amount of such class outstanding, exclusive of any securities of such class held by or for the account of the issuer or a subsidiary of the issuer. However, for the purpose of determining percentage ownership of voting trust certificates or certificates of deposit for equity securities, the class of voting trust certificates or certificates of deposit shall be deemed to consist of the amount of voting trust certificates or certificates of deposit issuable with respect to the total amount of outstanding equity securities of the class which may be deposited under the voting trust agreement or deposit agreement in question, whether or not all of such outstanding securities have been so deposited. For the purpose of this section a person acting in good faith may rely on the information contained in the latest consolidated financial statement in a registration statement or annual report filed with the Commission under the Act with respect to the amount of securities of the class outstanding or in the case of voting trust certificates or certificates of deposit the amount thereof issuable.

(b) In determining for the purpose of section 16(a) of the Act whether a person is the beneficial owner, directly, or indirectly, of more than 10 percent of any class of equity securities, such person shall be deemed to be the beneficial owner of securities of such class which such person has the right to acquire through the exercise of presently exercisable options, warrants or rights, or through the conversion of presently convertible securities. The securities subject to such

options, warrants, rights or conversion privileges shall be deemed to be outstanding for the purpose of computing, in accordance with paragraph (a) of this section, the percentage of outstanding securities of the class owned by such person.

The foregoing action would be taken pursuant to the Securities Exchange Act of 1934, particularly sections 16(a) and 23(a) thereof.

(Secs. 16(a), 23(a); 48 Stat. 896, 901, as amended; 15 U.S.C. 78p, 78w)

All interested persons are invited to submit their views and comments on the proposed amendment, including their views as to whether compliance therewith would involve undue hardship or expense. Such views and comments shall be submitted in writing, in duplicate, to the Securities and Exchange Commission, Washington, D.C. 20549, on or before January 2, 1968. Except where it is requested that such communications not be disclosed, they will be considered available for public inspection.

By the Commission, December 6, 1967.

ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-14615; Filed, Dec. 15, 1967; 8:45 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[R 1151]

CALIFORNIA

Notice of Proposed Withdrawal and Reservation of Lands

DECEMBER 8, 1967.

The Corps of Engineers, Department of the Army, has filed an application, Serial No. R 1151, for withdrawal of lands from all forms of appropriation under the public land laws, including the mining laws and mineral leasing laws, subject to valid existing rights. The applicant desires the land for construction and inundation rights as a part of the area required for the Mojave River Forks Reservoir Project.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 1414 University Avenue, Post Office Box 723, Riverside, Calif. 92502.

The Department's regulations (43 CFR 2311.1–3(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

SAN BERNARDINO MERIDIAN, CALIFORNIA

T. 3 N., R. 4 W.,
Sec. 22, SE¼NE¼.

The area described contains 40 acres in San Bernardino County, California.

HALL H. MCCLAIN,
Manager.

[F.R. Doc. 67-14637; Filed, Dec. 15, 1967; 8:48 a.m.]

[C-2713]

COLORADO

Notice of Classification of Public Lands for Multiple-Use Management

DECEMBER 8, 1967.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18) and to the regulations in 43 CFR Parts 2410 and 2411, the public lands within the areas described below together with any lands therein that may become public lands in the future are hereby classified for multiple-use management. Publication of this notice segregates all the described lands from appropriation only under the agricultural land laws (43 U.S.C. chs. 7 and 9; 25 U.S.C. 334); from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171); Small Tract Act of June 1, 1938, as amended (43 U.S.C. 682 (a) and (b)). The land shall remain open to all other applicable forms of appropriation including the mining and mineral leasing laws; the Public Land Sale Act of September 19, 1964 (43 U.S.C. 4121–27); exchanges under section 8, Taylor Grazing Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315(g)); and Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869; 869–1 to 869–4). As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended; or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. No protests or objections were received following publication of a notice of proposed classification (32 F.R. 13875–13876) or at the public hearing held on October 19, 1967, at Grand Junction, Colo. The record showing the comments received and other information is on file and can be examined in the Grand Junction District Office, Grand Junction, Colo. The public lands affected by this classification are located within the following described area and are shown on a map designated by Serial No. C–2713 in the Grand Junction District Office, Bureau of Land Management, Federal Building, Fourth and Rood, Grand Junction, Colo. 81502 and at the Land Office, Bureau of Land Management, Room 15019 Federal Building, 1961 Stout Street, Denver, Colo. 80202.

UTE PRINCIPAL MERIDIAN, COLORADO

MESA COUNTY

T. 1 S., R. 1 W.,
Sec. 27 west of Gunnison River;
Sec. 28;
Sec. 29, lots 1, 2, and 3, NE¼SW¼, N½SE¼, S½NE¼;
Sec. 32, NE¼, E½NW¼;
Secs. 33 and 34;
Secs. 35 and 36 south and west of Gunnison River.

T. 1 S., R. 1 E.,
Sec. 31, lot 2.

SIXTH PRINCIPAL MERIDIAN, COLORADO

MESA COUNTY

T. 12 S., R. 99 W.,
Sec. 19;
Secs. 28 to 31 inclusive;
Secs. 32 and 33 above west rim of Unaweep Canyon.

T. 12 S., R. 100 W.,
Secs. 7 to 11 inclusive;
Secs. 13 to 30 inclusive;
Sec. 31 east of east Pinon Mesa Rim;
Secs. 32 to 36 inclusive.

T. 12 S., R. 101 W.,
Secs. 15 to 17 inclusive;
Sec. 20, E½;
Secs. 21 to 24 inclusive;
Sec. 25, lots 1, 2, and 3, tract 75, NW¼, N½SW¼;
Sec. 26, NE¼, N½SE¼;
Sec. 36, portion of lot 1 lying east of east Pinon Mesa Rim.

T. 13 S., R. 99 W.,
Secs. 5, 6, 7, and 18 above west rim of Unaweep Canyon;
Sec. 19, lots 3 and 4.

T. 13 S., R. 100 W.,
Secs. 1 to 4 inclusive;
Sec. 5 east of east Pinon Mesa Rim;
Sec. 6, E½, and lot 8 east of east Pinon Mesa Rim;
Secs. 9 to 16 inclusive;
Sec. 17, E½NE¼, NE¼SE¼;
Sec. 21, E½, NW¼;
Secs. 22 to 24 inclusive;
Sec. 25, above the west rim of Unaweep Canyon;
Secs. 26 and 27;
Sec. 28, E½E½, southeast diagonal of SW¼NE¼ and that part of SW¼ lying east of east Pinon Mesa Rim;
Sec. 31, E½SE¼, SE¼NE¼;
Secs. 32 and 33 lying south and east of east Pinon Mesa Rim;
Secs. 34, 35, and 36 above the west rim of Unaweep Canyon.

T. 14 S., R. 100 W.,
Secs. 3 and 4 lying above west rim of Unaweep Canyon;
Sec. 5;
Sec. 6, E½, SW¼;
Secs. 7 and 8 lying above west rim of Unaweep Canyon.

The areas described aggregate approximately 42,634 acres of public lands.

3. For a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER, interested parties may submit comments to the Secretary of the Interior, LLM, 721, Washington, D.C. 20240 (43 CFR 2411.1–2(d)).

E. I. ROWLAND,
State Director.

[F.R. Doc. 67-14614; Filed, Dec. 15, 1967; 8:45 a.m.]

Office of the Secretary

[Order 2908]

VIRGIN ISLANDS GOVERNMENT

Obligation and Expenditure of Matching Funds

DECEMBER 12, 1967.

Secretarial approval of the obligation and expenditure by the Virgin Islands

Government of matching funds under section 7652(b)(3) of the Internal Revenue Code of 1954.

SECTION 1. *Purpose.* The purpose of this order is to establish certain criteria for the approval of the obligation and expenditure by the Virgin Islands Government of the sums paid into the separate fund in the local treasury.

SEC. 2. *Authority.* This order is issued pursuant to the authority vested in the President by section 7652(b)(3) of the Internal Revenue Code of 1954 (26 U.S.C. sec. 7652(b)(3) (1964 Ed.)) and delegated to the Secretary of the Interior by Executive Order 10602, dated March 23, 1955 (3 CFR 1954–58 Comp., p. 246).

SEC. 3. *Approval of Obligations and Expenditures.* (a) In acting upon any request for approval of the obligation and expenditure by the Virgin Islands Government of monies in the separate fund in the Virgin Islands treasury pursuant to section 7652(b)(3) of the Internal Revenue Code of 1954, approval shall be withheld of the obligation and expenditure of amounts equal to the amounts of any deficiencies in accruals in the preceding calendar year to the special Virgin Islands Conservation Fund authorized by Act No. 2036 of the Seventh Legislature of the Virgin Islands, Third Special Session, dated August 7, 1967, which deficiencies arise by reason of offsets provided for under the Agreement between the Virgin Islands Government and Hess Oil Virgin Islands Corp. dated September 1, 1965, and supplemented by the Agreement dated September 13, 1966, to the extent that such offsets result from actions by or under the control of the Virgin Islands Government.

(b) In acting upon any request for approval of the obligation and expenditure by the Virgin Islands Government of monies in the aforesaid separate fund, approval may be withheld of the obligation and expenditure of amounts equal to the amount of accruals in the preceding calendar year to the said Conservation Fund which remain unprogramed or unobligated pursuant to Act No. 2036 of the Seventh Legislature of the Virgin Islands.

STEWART L. UDALL,
Secretary of the Interior.

[F.R. Doc. 67–14639; Filed, Dec. 15, 1967; 8:48 a.m.]

DIRECTOR, BUREAU OF OUTDOOR RECREATION

Delegation of Authority

The delegation of authority from the Secretary of the Interior to the Director, Bureau of Outdoor Recreation and published at 32 F.R. 16059 is revised as set forth below. The revision affects the format of the previously published delegation and removes extraneous, nondelegatory material. The delegation is a part of the Departmental Manual and the numbering is that of the Manual:

248 DM 1.1 *General delegation.* * * *

H. By cooperating and consulting with the Secretary, Department of Transportation, in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed and in undertaking and coordinating Interior Department participation in the planning of transportation programs and projects which require the use of any land from a public park, recreation area, wildlife and waterfowl refuge, to insure that there is no feasible and prudent alternative to the use of such land and that such programs and projects include all possible planning to minimize harm to such lands. In carrying out this delegated authority the Director, Bureau of Outdoor Recreation shall consult and coordinate with the Director, Bureau of Sport Fisheries and Wildlife, the Director, National Park Service, and the heads of other Interior bureaus (section 4(f) of the Act of October 15, 1966 (80 Stat. 931)).

Delete 248 DM 1.1I. This section which contained nondelegatory material is superseded by other documentation.

GEORGE E. ROBINSON,
Deputy Assistant Secretary for Administration.

DECEMBER 11, 1967.

[F.R. Doc. 67–14638; Filed, Dec. 15, 1967; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

[P. & S. Docket No. 308]

MARKET AGENCIES AT SIOUX CITY, IOWA, STOCK YARDS

Petition To Vacate Order and Dismiss Proceeding

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), a basic order was issued in the case of In Re Market Agencies at the Sioux City Stock Yards, Sioux City, Iowa, respondents (P. & S. Docket No. 308), on July 25, 1931, prescribing the rates and charges to be assessed by the respondents for the services rendered by them at the Sioux City Stock Yards, Sioux City, Iowa. Such rates and charges have been modified from time to time by subsequent orders issued in the proceeding. The latest such order was issued on June 10, 1966 (25 A.D. 765) prescribing the rates and charges to be assessed by the respondents to and including July 31, 1968, unless modified or extended by further order before the latter date.

On November 17, 1967, a petition was filed on behalf of respondents requesting that the rate order in this proceeding be vacated and the proceeding be dismissed in conformity with § 203.11 (9 CFR 203.11) of the statements of general policy under the Packers and Stockyards Act. The petition reads as follows:

This is a rate proceeding under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.). The respondents are now operating under order issued June 10, 1966 (25 A.D. 765). The current schedule of rates and charges became effective June 16, 1966, and is to remain in effect, unless modified or extended by further order, to and including July 31, 1968.

The basic rate order in this proceeding was issued July 25, 1931. During the period since the basic rate order has been in effect, respondents have followed the procedure, prior to filing of a petition for modification of the basic order, of seeking an advance indication of the attitude of the Packers and Stockyards Administration toward the changes to be proposed. Information in support of such proposals has been submitted and a tentative agreement is reached before a formal petition for modification has been filed.

The respondents do not believe economic conditions in the industry, the marketing structure in the trade territory, or any other circumstance necessitates the continuation of the formal procedure for obtaining modification in the rates and charges assessed by respondents.

It is requested therefore that in conformity with the policy expressed in section 203.11 of the statements of general policy under the Packers and Stockyards Act (9 CFR 203.11) that the rate order in this proceeding be vacated and the proceeding be dismissed.

Any interested person may file with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, within 15 days after the publication of this notice in the FEDERAL REGISTER, written data, views, comments, or arguments with respect to the petition filed by the respondents.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 12th day of December 1967.

DONALD A. CAMPBELL,
Acting Administrator, Packers and Stockyards Administration.

[F.R. Doc. 67–14643; Filed, Dec. 15, 1967; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50–271]

VERMONT YANKEE NUCLEAR POWER CORP.

Notice of Issuance of Provisional Construction Permit

Notice is hereby given that, pursuant to the Initial Decision of the Atomic Safety and Licensing Board, dated December 8, 1967, the Director of the Division of Reactor Licensing has issued Provisional Construction Permit No. CPPR–36 to Vermont Yankee Nuclear Power Corp. for the construction of a boiling water nuclear reactor, designated as the Vermont Yankee Nuclear Power Station to be located at Vermont Yankee Nuclear

Power Corp.'s site in the town of Vernon in Windham County, Vt.

A copy of the Initial Decision is on file in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 11th day of December 1967.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 67-14606; Filed, Dec. 15, 1967; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 19332]

SEAGREEN AIR TRANSPORT, LTD.

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter will be held on January 25, 1968, at 10 a.m., Room 211, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Joseph L. Fitzmaurice.

Dated at Washington, D.C., December 13, 1967.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 67-14647; Filed, Dec. 15, 1967; 8:49 a.m.]

FEDERAL MARITIME COMMISSION

AMERICAN GREAT LAKES-MEDITERRANEAN EASTBOUND FREIGHT CONFERENCE

Notice of Petition Filed for Approval

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 814).

Interested parties may inspect a copy of the proposed contract form and of the petition at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to the proposed contract form and the petition including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the proposed contract form and of the petition (as set forth below), and the comments should indicate that this has been done.

Notice of application to institute an exclusive patronage (dual rate) system filed by:

Mr. Eric G. Brown, Secretary, American Great Lakes-Mediterranean Eastbound Freight Conference, 10 Place de la Joliette, Bouches-du-Rhone, Marseilles, France.

A proposed form of dual rate contract has been filed and application has been made for permission to institute a dual rate contract system on all cargo transported on vessels of the carriers members of the American Great Lakes-Mediterranean Eastbound Freight Conference in the trade covered thereby.

The form of contract provides that (1) the merchant ship or cause to be shipped all of its ocean shipments for which contract and noncontract rates are offered in the Conference trade on vessels of the carrier members unless otherwise provided in the contract, and (2) the noncontract rates shall be 15 percent higher than the rates shown in the Conference tariff, in addition to other terms and conditions which are set forth therein.

Dated: December 13, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-14644; Filed, Dec. 15, 1967; 8:48 a.m.]

MEDITERRANEAN/U.S.A. GREAT LAKES WESTBOUND FREIGHT CONFERENCE

Notice of Petition Filed for Approval

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 814).

Interested parties may inspect a copy of the proposed contract form and of the petition at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to the proposed contract form and the petition including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the proposed contract form and of the petition (as set forth below), and the comments should indicate that this has been done.

Notice of application to institute an exclusive patronage (dual-rate) system filed by:

Mr. Eric G. Brown, Secretary, Mediterranean/U.S.A. Great Lakes Westbound Freight Conference, 10 Place de la Joliette, Bouches-du-Rhone, Marseilles, France.

A proposed form of dual-rate contract has been filed and application has been made for permission to institute a dual-rate contract system on all cargo transported on vessels of the carriers members of the Mediterranean/U.S.A. Great Lakes Westbound Freight Conference in the trade covered thereby.

The form of contract provides that (1) the merchant ship or cause to be shipped all of its ocean shipments for which contract and noncontract rates are offered in the Conference trade on vessels of the carrier members unless otherwise provided in the contract, and (2) the noncontract rates shall be 15 percent higher than the rates shown in the Conference tariff, in addition to other terms and conditions which are set forth therein.

Dated: December 13, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-14645; Filed, Dec. 15, 1967; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-3892 etc.]

PANHANDLE PRODUCING CO. ET AL.

Findings and Order

DECEMBER 7, 1967.

Findings and order after statutory hearing issuing certificates of public convenience and necessity, amending certificates, permitting and approving abandonment of service, terminating certificates, terminating rate proceeding, making successors co-respondents, substituting respondent, redesignating proceedings, requiring filing of agreements and undertakings, and accepting related rate schedules and supplements for filing.

Each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce, for permission and approval to abandon service, or a petition to amend an existing certificate authorization, all as more fully described in the respective applications and petitions (and any supplements or amendments thereto) which are on file with the Commission.

The Applicants herein have filed related FPC gas rate schedules and propose to initiate or abandon, add or delete natural gas service in interstate commerce as indicated by the tabulation herein. All sales certificated herein are at rates either equal to or below the ceiling prices established by the Commission's statement of general policy No. 61-1, as amended, or involve sales for which permanent certificates have been previously issued; except that the sale from the Permian Basin area of Texas is authorized to be made at the applicable area base rate and under the conditions prescribed in Opinion Nos. 468 and 468-A.

Panhandle Producing Co. et al., Applicants in Docket No. G-3892 propose to continue the sale of natural gas heretofore authorized in said docket to be made

pursuant to Ashland Oil & Refining Co. FPC Gas Rate Schedule No. 107. Said rate schedule will be redesignated as that of Applicants. The presently effective rate under said rate schedule is in effect subject to refund in Docket No. RI64–576. Therefore, Applicants will be made co-respondents in the proceeding pending in Docket No. RI64–576; the proceeding will be redesignated accordingly; and Applicants will be required to file an agreement and undertaking to assure the refund of any amounts collected by them in excess of the amount determined to be just and reasonable in said proceeding.

Dunigan Operating Co., Inc. (Operator), et al., Applicant in Docket No. G–11890, proposes to continue the sale of natural gas heretofore authorized in said docket to be made pursuant to Huval & Dunigan (Operator) et al., FPC Gas Rate Schedule No. 1. Said rate schedule will be redesignated as that of Applicant. The presently effective rate under said rate schedule is in effect subject to refund in Docket No. RI63–24. The predecessor has also filed an increased rate which is suspended in Docket No. RI67–128. Therefore, Applicant will be made a co-respondent in the proceeding pending in Docket No. RI63–24 and will be substituted as respondent in the proceeding pending in Docket No. RI67–128; the proceedings will be redesignataed accordingly; and Applicant will be required to file an agreement and undertaking in Docket No. RI63–24 to assure the refund of any amounts collected by it in excess of the amount determined to be just and reasonable in said proceeding.

The Commission's staff has reviewed each application and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice, no petitions to intervene, notices of intervention, or protests to the granting of any of the respective applications or petitions in this order have been received.

At a hearing held on November 30, 1967, the Commission on its own motion received and made a part of the record in these proceedings all evidence, including the applications, amendments, and exhibits thereto, submitted in support of the respective authorizations sought herein, and upon consideration of the record.

The Commission finds:

(1) Each Applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore, be a "natural-gas company" within the meaning of said Act upon the commencement of the service under the respective authorizations granted hereinafter.

(2) The sales of natural gas hereinbefore described, as more fully described in the respective applications, amendments, and/or supplements herein, will be made in interstate commerce, subject to the jurisdiction of the Commission and such sales by the respective Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

The respective Applicants are able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The sales of natural gas by the respective Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity and certificates therefore should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the certificate authorizations heretofore issued by the Commission in Docket Nos. G–3892, G–4579, G–11890, G–12238, G–18719, G–19383, G–19387, CI60–739, CI61–272, CI61–669, CI62–657, CI62–1210, CI63–128, CI63–284, CI63–833, CI63–1000, CI64–1380, CI64–1436, CI64–1531, CI65–466, CI66–326, and CI66–395 should be amended as hereinafter ordered and conditioned.

(6) The sales of natural gas proposed to be abandoned by the respective Applicants, as hereinbefore described, all as more fully described in the respective applications and in the tabulation herein, are subject to the requirements of subsection (b) of section 7 of the Natural Gas Act, and such abandonments should be permitted and approved as hereinafter ordered.

(7) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates of public convenience and necessity heretofore issued to the respective Applicants relating to the abandonments hereinafter permitted and approved should be terminated.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the rate suspension proceeding pending in Docket No. RI67–467 should be terminated only insofar as it pertains to Jack W. Grigsby (Operator), et al., FPC Gas Rate Schedule No. 7.

(9) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Panhandle Producing Company, et al., should be made co-respondents in the proceeding pending in Docket No. RI64–576, that said proceeding should be redesignated accordingly, and that Panhandle Producing Company, et al., should be required to file an agreement and undertaking in said proceeding.

(10) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Dunigan Operating Company, Inc. (Operator), et al., should be made a co-respondent in the proceeding pending in Docket No. RI63–24 and should be substituted as respondent in the proceeding pending in Docket No. RI67–128, that said proceedings should be redesignated accordingly, and that Dunigan Operating Company, Inc. (Operator), et al., should be required to file an agreement and undertaking in Docket No. RI63–24.

(11) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the respective related rate schedules and supplements as designated in the tabulation herein should be accepted for filing as hereinafter ordered.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order, authorizing the sales by the respective Applicants herein of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary for such sales, all as hereinbefore described and as more fully described in the respective applications, amendments, supplements and exhibits in this proceeding.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder, and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against the respective Applicants. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customers involved imply approval of all of the terms of the respective contracts particularly as to the cessation of service upon termination of said contracts, as provided by section 7(b) of the Natural Gas Act. Nor shall the grant of the certificates aforesaid be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The grant of the certificates issued herein on all applications filed after July 1, 1967, is upon the condition that no increase in rate which would exceed the ceiling prescribed for the given area by paragraph (d)(3) of the Commission's statement of general policy No. 61–1, as amended, shall be filed prior to the applicable date as indicated by footnote 21 in the attached tabulation.

(E) The initial rate for the sale authorized in Docket No. CI68–61 shall be the applicable base area rate prescribed in Opinion No. 468, as modified by Opinion No. 468–A, as adjusted for quality, or the contract rate, whichever is lower; and no increase in rate in excess of said initial rate shall be filed before January 1, 1968.

(F) If the quality of the gas delivered by Applicant in Docket No. CI68–61 deviates at any time from the quality standards set forth in Opinion No. 468, as modified by Opinion No. 468–A, so as to require a downward adjustment of the existing rate, a notice of change in rate shall be filed pursuant to the provisions of section 4 of the Natural Gas Act: *Provided, however,* That adjustments reflecting changes in Btu content of the gas shall be computed by the applicable formula and charged without the filing of a notice of change in rate.

(G) Within 90 days from the date of initial delivery Applicant in Docket No. CI68–61 shall file a rate schedule quality statement in the form prescribed in Opinion No. 468–A.

(H) The acceptance for filing of the related rate filing in Docket No. CI68–503 is contingent upon Applicant's filing three copies of a billing statement as required by the regulations under the Natural Gas Act.

(I) A certificate is issued herein in Docket No. CI68–515 authorizing Applicant to continue the sale of natural gas which was initiated without prior Commission authorization.

(J) The certificates heretofore issued in Docket Nos. CI63–128, CI63–1000, CI65–466, and CI66–395 are amended by adding thereto or deleting therefrom authorization to sell natural gas to the same purchasers and in the same areas as covered by the original authorizations pursuant to the rate schedule supplements as indicated in the tabulation herein.

(K) The certificates heretofore issued in Docket Nos. G–4579, G–18719, CI64–1380, and CI66–826 are amended by deleting therefrom authorization to sell natural gas from acreage assigned to Applicants in Docket Nos. CI68–528, CI68–395, CI68–516, and CI68–500, respectively.

(L) The certificates heretofore issued in Docket Nos. G–3892, G–11890, G–12238, G–19383, G–19387, CI60–789, CI61–272, CI61–669, CI62–657, CI62–1210, CI63–284, CI63–833, CI64–1436, and CI64–1531 are amended by changing the certificate holders to the respective successors in interest as indicated in the tabulation herein.

(M) Permission for and approval of the abandonment of service by the respective Applicants, as hereinbefore described, all as more fully described in the respective applications and in the tabulation herein are granted.

(N) Permission for and approval of the abandonment in Docket No. CI68–508 shall not be construed to relieve Applicant of its refund obligation in Docket No. CI60–71 ordered in Opinion No. 492, Skelly Oil Co. et al., Docket No. G–18638 et al.

(O) The certificates heretofore issued in Docket Nos. CI60–428, CI61–195, and CI62–1073 are terminated.

(P) The rate suspension proceeding pending in Docket No. RI67–467 is terminated only insofar as it pertains to Jack W. Grigsby (Operator) et al., FPC Gas Rate Schedule No. 7.

(Q) Panhandle Producing Co. et al., are made co-respondents in the proceeding pending in Docket No. RI64–576, and the proceeding is redesignated accordingly.[1]

(R) Dunigan Operating Co., Inc. (Operator) et al., is made a co-respondent in the proceeding pending in Docket No. RI63–24 and is substituted in lieu of Huval & Dunigan (Operator) et al., as respondent in the proceeding pending in Docket No. RI67–128. Said proceedings are redesignated accordingly.[2]

(S) Within 30 days from the issuance of this order Panhandle Producing Co. et al., and Dunigan Operating Co., Inc. (Operator) et al., shall execute, in the form set out below, and shall file with the Secretary of the Commission acceptable agreements and undertakings in Docket Nos. RI64–576 and RI63–24, respectively, to assure the refunds of any amounts collected by them, together with interest at the rate of 7 percent per annum, in excess of the amounts determined to be just and reasonable in said proceedings. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of submission, such agreements and undertakings shall be deemed to have been accepted for filing.

(T) Panhandle Producing Co. et al., and Dunigan Operating Co., Inc. (Operator) et al., shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, and the agreements and undertakings filed by them in Docket Nos. RI64–576 and RI63–24, respectively, shall remain in full force and effect until discharged by the Commission.

(U) The respective related rate schedules and supplements as indicated in the tabulation herein are accepted for filing; further, the rate schedules relating to the successions herein are accepted and redesignated, subject to the applicable Commission regulations under the Natural Gas Act to be effective on the dates as indicated in the tabulation herein.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

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[1] Ashland Oil & Refining Co. and Panhandle Producing Co. et al.

[2] Docket No. RI63–24, Huval & Dunigan (Operator) et al., and Dunigan Operating Co., Inc. (Operator) et al.; Docket No. RI67–128, Dunigan Operating Co., Inc. (Operator) et al.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
G–3892 E 7–6–67	Panhandle Producing Co. et al. (successor to Ashland Oil & Refining Co.).	Colorado Interstate Gas Co., West Panhandle Field, Hutchinson County, Tex.	Ashland Oil & Refining Co., FPC GRS No. 107.	3	
			Supplement Nos. 1–16	3	1–16
			Notice of succession 7–5–67.		
			Assignment 5–5–67 [1]	3	17
			Effective date: 5–1–67		
G–11890 E 8–10–67	Dunigan Operating Co., Inc. (Operator), et al. (successor to Huval & Dunigan (Operator) et al.).	Natural Gas Pipeline Co. of America, Quinduno Field, Roberts County, Tex.	Huval & Dunigan (Operator) et al., FPC GRS No. 1.	1	
			Supplement Nos. 1–2	1	1–2
			Notice of succession (undated).		
			Assignment 8–15–67 [2]	1	3
			Effective date: 6–1–67		
G–12238 E 8–26–67	Mesa Petroleum Co. (Operator) et al. (successor to Petroleum Exploration, Inc. of Texas (Operator) et al.).	do	Petroleum Exploration, Inc. of Texas (Operator) et al., FPC GRS No. 14.	28	
			Supplement Nos. 1–2	28	1–2
			Notice of succession 8–25–67.		
			Merger agreement 4–14–67.	28	3
			Effective date: 4–30–67		
G–19383 E 8–26–67	Mesa Petroleum Co. et al. (successor to Petroleum Exploration, Inc. of Texas, et al.).	Northern Natural Gas Co., Morrow Field, Ochiltree County, Tex.	Petroleum Exploration, Inc. of Texas et al., FPC GRS No. 2.	20	
			Supplement No. 1	20	1
			Notice of succession 8–25–67.		
			Merger agreement 4–14–67.	20	2
			Effective date: 4–30–67		
G–19387 E 8–29–67	do	Colorado Interstate Gas Co., Mocane Field, Beaver County, Okla.	Petroleum Exploration, Inc., of Texas et al., FPC GRS No. 1.	21	
			Supplement Nos. 1–5	21	1–5
			Notice of succession 8–25–67.		
			Merger agreement 4–14–67.	21	6
			Effective date: 4–30–67		

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
CI60-730 ..... E 8-28-67	Mesa Petroleum Co. (successor to Petroleum Exploration, Inc., of Texas).	Northern Natural Gas Co., acreage in Ochiltree County, Tex.	Petroleum Exploration, Inc., of Texas, FPC GRS No. 5.	22	.....
			Notice of succession 8-25-67.	.....	.....
			Merger agreement 4-14-67.	22	1
			Effective date: 4-30-67.	.....	.....
CI61-272 ..... E 8-28-67	Mesa Petroleum Co. et al. (successor to Petroleum Exploration, Inc., of Texas et al.).	Colorado Interstate Gas Co., Sparks Field, Morton County, Kans.	Petroleum Exploration, Inc., of Texas et al., FPC GRS No. 6.	23	.....
			Supplement Nos. 1-2	23	1-2
			Notice of succession 8-25-67.	.....	.....
			Merger agreement 4-14-67.	23	3
			Effective date: 4-30-67.	.....	.....
CI61-669 ..... E 8-28-67	....do.....	Transwestern Pipeline Co., Share-Mississippian Gas Field, Ochiltree County, Tex.	Petroleum Exploration, Inc., of Texas et al., FPC GRS No. 7.	24	.....
			Notice of succession 8-25-67.	.....	.....
			Merger agreement 4-14-67.	24	1
			Effective date: 4-30-67.	.....	.....
CI62-657 ..... E 8-28-67	....do.....	Northern Natural Gas Co., Morrow Field, Beaver County, Okla.	Petroleum Exploration, Inc. of Texas et al., FPC GRS No. 8.	25	.....
			Notice of succession 8-25-67.	.....	.....
			Merger Agreement 4-14-67.	25	1
			Effective date: 4-30-67.	.....	.....
CI62-1210 ..... E 8-28-67	....do.....	Northern Natural Gas Co., Lips Morrow Field, Roberts County, Tex.	Petroleum Exploration, Inc. of Texas et al., FPC GRS No. 9.	26	.....
			Notice of succession 8-25-67.	.....	.....
			Merger agreement 4-14-67.	26	1
			Effective date: 4-30-67.	.....	.....
CI63-128 ..... D 10-9-67	Hall-Jones Oil Corp.	Northern Natural Gas Co., Como Field, Beaver County, Okla.	Amendatory agreement 7-25-67.[3 4]	1	3
CI63-284 ..... E 8-28-67	Mesa Petroleum Co. et al. (successor to Petroleum Exploration, Inc. of Texas et al.).	Natural Gas Pipeline Co. of America, Quinduno Field, Roberts County, Tex.	Petroleum Exploration, Inc. of Texas et al., FPC GRS No. 13.	27	.....
			Supplement No. 1	27	1
			Notice of succession 8-25-67.	.....	.....
			Merger agreement 4-14-67.	27	2
			Effective date: 4-30-67.	.....	.....
CI63-533 ..... E 9-28-67	A. L. Phillips (Operator) (successor to Universoil, Inc. (Operator)).	Cities Service Gas Co., East Clark and North Buffalo Fields, Harper County, Okla.	Universoil, Inc. (Operator) FPC GRS No. 1.	1	.....
			Supplement No. 1	1	1
			Notice of succession 9-27-67.	.....	.....
			Assignment 7-15-67 [6]	1	2
			Assignment 7-15-67 [6]	1	3
			Assignment 8-1-67 [7]	1	4
			Assignment 8-1-67 [8]	1	5
			Effective date: 8-1-67.	.....	.....
CI63-1000 ..... D 9-10-65	Humble Oil & Refining Co.	Arkansas Louisiana Gas Co., Lacey Area, Kingfisher County, Okla.	Assignment 8-24-65 [4 9]	332	5
CI64-1436 ..... E 8-28-67	Mesa Petroleum Co. et al. (successor to Petroleum Exploration, Inc. of Texas et al.).	Panhandle Eastern Pipe Line Co., Keyes Field, Cimarron and Texas Counties, Okla.	Petroleum Exploration, Inc., of Texas et al., FPC GRS No. 15.	20	.....
			Notice of succession 8-25-67.	.....	.....
			Merger agreement 4-14-67.	20	1
			Effective date: 4-30-67.	.....	.....
CI64-1531 ..... E 8-28-67	....do.....	Lone Star Gas Co., acreage in McClain County, Okla.	Petroleum Exploration, Inc., of Texas et al., FPC GRS No. 16.	30	.....
			Notice of succession 8-25-67.	.....	.....
			Merger agreement 4-14-67.	30	1
			Effective date: 4-30-67.	.....	.....
CI65-466 ..... D 9-6-67	Gulf Oil Corp., (Operator) et al.	Transwestern Pipeline Co., Waha Field, Reeves and Pecos Counties, Tex.	Letter agreement 8-3-67 [4 10].	375	5
CI66-205 ..... (G-18719) C 9-18-67 as supplemented 10-5-67	H. K. Keese et al.	El Paso Natural Gas Co., acreage in Sandoval County, N. Mex.[11]	Assignment 8-1-61 [12]	1	3
			Assignment 9-27-66 [13]	1	4
			Assignment 1-16-66 [14]	1	5
			Effective date: 9-27-66.	.....	.....
CI66-61 ..... A 7-17-67 [15]	MWJ Producing Co. (Operator), agent.[16 17]	El Paso Natural Gas Co., Spraberry (Trend Area) Field, Reagan County, Tex.	Contract 6-16-67 [16]	13	.....
			Assignment 5-1-67 [16]	13	1
			Assignment 6-23-67 [16]	13	2
CI66-264 ..... A 9-8-67 [21]	John P. Strong	Transcontinental Gas Pipe Line Corp., Tynan Field, Bee County, Tex.	Contract 8-25-67	1	.....
CI66-495 ..... A 9-28-67	Tenneco Oil Co.	Arkansas Louisiana Gas Co., Mansfield Field, Logan and Scott Counties, Ark.	Contract 7-17-67 [22]	217	.....
			Contract 5-12-67 [22 24]	217	1
CI66-500 ..... (CI66-326) F 9-25-67	Rex Monahan (successor to Clark Oil & Refining Corp.).	Kansas-Nebraska Natural Gas Co., Inc., Otis Field, Washington County, Colo.	Contract 8-23-65 [25]	9	.....
			Assignment 9-1-67 [26]	9	1
			Assignment 9-1-67 [26]	9	2
CI66-502 ..... A 9-29-67 [23]	Rhodes & Hicks Drilling Corp. (Operator) et al.	Valley Gas Transmission, Inc., Rhomac Field, Live Oak County, Tex.	Contract 6-14-67 [24]	5	.....
CI66-506 ..... A 9-29-67 [23]	Coastal States Gas Producing Co.	United Gas Pipe Line Co., North Rosenberg Field, Fort Bend County, Tex.	Contract 9-21-67 [24]	74	.....
CI66-507 ..... A 10-2-67 [23]	Halliburton Oil Producing Co.	Arkansas Louisiana Gas Co., Gragg Field, Sebastian County, Ark.	Ratified 4-21-65	1	.....
			Contract 3-20-63	1	1
			Amendatory agreement 9-14-63.[24]	1	2
CI66-508 ..... (CI60-71) [27] B 10-2-67	Continental Oil Co.	South Texas Natural Gas Gathering Co., Javelina Field, Hidalgo County, Tex.	Notice of cancellation 9-29-67.[4 28]	173	2
CI66-511 ..... (CI61-195) B 10-2-67	Jack W. Grigsby (Operator) et al.	United Gas Pipe Line Co., Marie-Pistol Ridge Field, Forrest County, Miss.	Notice of cancellation 9-28-67.[4 28]	[29 7]	5
CI66-515 ..... A 10-9-67 [30]	Rochester & Pittsburgh Coal Co.	The Manufacturers Light & Heat Co., Armstrong Township, Indiana County, Pa.	Contract 10-4-57 [24]	1	.....
CI66-516 ..... (CI64-1280) F 9-29-67	Monsanto Co. (successor to Shell Oil Co.).	Arkansas Louisiana Gas Co., Bonanza Field, Sebastian County, Ark.	Contract 3-17-67 [31]	91	.....
			Contract 10-21-63 [32]	91	1
			Letter agreement 10-21-63.	91	2
			Letter agreement 9-20-67.[24 33]	91	3
CI66-517 ..... A 10-3-67 [34]	Drevsoll, Inc.	Equitable Gas Co., Center District, Gilmer County, W. Va.	Contract 8-30-67 [24]	2	.....

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
CI66-518 A 10-3-67.[2]	Parlay Oil, Inc.	Michigan Wisconsin Pipe Line Co., Wildcat Field, Seward County, Kans.	Contract 8-18-67	1	
CI66-520 A 10-5-67.[2]	Sunray DX Oil Co.	Kansas-Nebraska Natural Gas Co., Inc., Minto Field, Logan County, Colo.	Letter agreement 8-16-67.[24]	277	
			Contract 8-20-62.[24 25]	277	1
CI66-521 (CI60-428) B 10-9-67	do	South Texas Natural Gas Gathering Co., Javelina Field, Hidalgo County, Tex.	Notice of cancellation 10-5-67.[4 26]	199	4
CI68-523 (CI62-1073) B 10-9-67	Hall-Jones, Ltd. (Operator) et al.	Michigan Wisconsin Pipe Line Co., Laverne Area, Harper County, Okla.	Notice of cancellation 10-4-67.[4 26]	2	1
CI68-526 A 10-6-67.[2]	Robert J. Riedel, d.b.a. R & R Lease Service.	Panhandle Eastern Pipe Line Co., acreage in Meade County, Kans.	Contract 9-15-67	1	
CI68-528 (G-4579) F 10-5-67	Donald W. Jackson (successor to Cities Service Oil Co.).	Northern Natural Gas Co., Hugoton Field, Texas County, Okla.	Contract 5-23-63 [26]	1	
			Assignment 7-1-67	1	1
			Effective date: 7-1-67		
CI68-530 A 10-9-67.[2]	Brooks Hall Oil Corp. (Operator) et al.	Cities Service Gas Co., acreage in Woods County, Okla.	Contract 8-25-67	5	

[1] Assigns acreage and contractual rights from Ashland to Panhandle. This filing supersedes Panhandle's FPC GRS No. 2 which covered Panhandle's sale to Ashland.
[2] Partnership dissolved and I. J. Huval assigned his interest to four other parties whom Applicant is filing to cover.
[3] Pressure too low to meet buyer requirements. Acreage released as to the Morrow Formation only.
[4] Effective date: Date of this order.
[5] Universoil, Inc., assigns contract rights to F. Connor Creigh.
[6] Universoil, Inc., assigns acreage to F. Connor Creigh.
[7] F. Connor Creigh assigns contract rights to A. L. Phillips (Operator).
[8] F. Connor Creigh assigns acreage to A. L. Phillips (Operator).
[9] Assigns acreage to Cleary Petroleum, Inc., and Robert P. Lammerts.
[10] Deletes acreage which is uneconomical to connect (estimated reserves are 375,000 Mcf; cost of connection estimated at $34,550 or 9.95 cents per Mcf).
[11] Production from formations down to and including the Pictured Cliffs.
[12] From M. J. Florance Trust to Reynolds Mining Corp. and Cities Service Oil Co.
[13] From Reynolds and Cities Service to H. K. Keesee; adds acreage previously dedicated to M. J. Florance Trust FPC GRS No. 3.
[14] Fractional interest in Cinco Diablos Well No. 1 (NW¼ sec. 20, 25° N., 3° W.) from Keesee to V. L. Wiederkehr et al.
[15] Jan. 1, 1968, moratorium provided by Opinion No. 468.
[16] By letter filed Sept. 25, 1967, Applicant agreed to accept a permanent certificate conditioned as Opinion No. 468.
[17] MWJ Producing Co. owns no working interest but is acting as Agent for Martin, Williams and Judson et al.
[18] Between Martin, Williams and Judson, a partnership and El Paso Natural Gas Co.
[19] Martin, Williams and Judson, as assignor of a fractional interest to Myron Anderson, Howard R. Eudy and W. C. Kile, Jr.
[20] Martin, Williams and Judson, as assignor of a fractional interest to Lott, Zero Equipment Co., Eyster, Schagal and Rathien.
[21] Jan. 1, 1970, moratorium pursuant to the Commission's statement of general policy No. 61-1, as amended.
[22] Adopts the terms of the May 12, 1967 contract.
[23] Contract between Midwest Oil Corp. and Arkansas Louisiana Gas Co. for a sale from Scott County, Ark.; on file as Midwest Oil Corp. FPC GRS No. 45.
[24] Effective date: Date of initial delivery (Applicant shall advise the Commission as to such date).
[25] Also on file as Clark Oil & Refining Corp. FPC GRS No. 1.
[26] From Clark Oil & Refining Corp. to Rex Monahan.
[27] The certificate application in Docket No. CI60-71 is consolidated in the proceeding in Docket No. G-18638 et al., which is under judicial review, and will not be terminated.
[28] Source of gas depleted.
[29] Applicant filed for an increased rate to 22.8 cents in Docket No. RI67-467. Increased rate was suspended until Dec. 9, 1967; therefore, the rate suspension proceeding pending in Docket No. RI67-467 will be terminated only insofar as it pertains to Jack W. Grigsby (Operator) et al., FPC GRS No. 7.
[30] Sale being rendered without prior Commission authorization.
[31] Adopts terms set forth in contract between Shell Oil Co. and Arkansas Louisiana Gas Co., dated Oct. 21, 1963.
[32] Currently on file as Shell Oil Co., FPC GRS No. 306.
[33] Amends basic contract to provide for a 5-year makeup period for prepaid gas.
[34] Agreement reinstates contract of Aug. 20, 1962 that had previously been canceled.
[35] Sunray was previously authorized to sell gas under this contract in Docket No. CI63-544 and FPC GRS No. 226; abandonment of service was authorized in Docket No. CI66-770.
[36] Also on file as Cities Service Oil Co. (Operator) et al., FPC GRS No. 169.

Suggested agreement and undertaking:

BEFORE THE FEDERAL POWER COMMISSION

(Name of Respondent ----------)

Docket No. -------

AGREEMENT AND UNDERTAKING OF (NAME OF RESPONDENT) TO COMPLY WITH REFUNDING AND REPORTING PROVISIONS OF SECTION 154.102 OF THE COMMISSION'S REGULATIONS UNDER THE NATURAL GAS ACT

(Name of Respondent) hereby agrees and undertakes to comply with the refunding and reporting provisions of section 154.102 of the Commission's regulations under the Natural Gas Act insofar as they are applicable to the proceeding in Docket No. ------- (and has caused this agreement and undertaking to be executed and sealed in its name by its officers, thereupon duly authorized in accordance with the terms of the resolution of its board of directors, a certified copy of which is appended hereto),[1] this ------- day of ----------, 196--.

(Name of Respondent)

By ----------

Attest:

----

[1] If a corporation.

[F.R. Doc. 67-14548; Filed, Dec. 15, 1967; 8:45 a.m.]

[Docket No. CP68-167]

NORTHERN NATURAL GAS CO.

Notice of Application

DECEMBER 5, 1967.

Take notice that on November 24, 1967, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP68-167 an application pursuant to sections 7(b) and 7(c) gas facilities and for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities for the transmission of natural gas in interstate commerce for resale, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate new sales measuring and regulating facilities to deliver natural gas to Producers Utilities Corp. (Producers) at a point of interconnection of Applicant's Kermit-to-Beaver pipeline in Carson County, Tex.

Applicant further proposes to abandon its present sales measuring and regulating facilities serving Producers in lieu of the new facilities.

Producers will reimburse Northern for the actual cost of providing and installing the facilities at the new delivery point which cost is estimated to be $4,480.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 26, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission-and-approval for the proposed abandonment are required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 67-14608; Filed, Dec. 15, 1967; 8:45 a.m.]

[Docket No. G-3609 etc.]

ELVA ARMER ET AL.

Findings and Orders; Correction

NOVEMBER 30, 1967.

Elva Armer et al. (successor to Lee Drilling Co.), and other applicants listed of the Natural Gas Act for permission and approval to abandon certain natural herein, Docket Nos. G-3609 et al.; D. W. Skinner (Operator), et al. and Westmore

Drilling Co., Inc. (Operator), et al., Docket No. RI61-75.

In findings and orders after statutory hearing issuing certificate of public convenience and necessity, amending certificates, permitting and approving abandonment of service, terminating certificate, making successors co-respondents, redesignating proceedings, requiring filing of agreements and undertakings, accepting agreement and undertaking for filing, and accepting related rate schedules and supplements for filing, issued October 30, 1967, and published in the FEDERAL REGISTER, November 7, 1967 (F.R. Doc. 67-13025), 32 F.R. 15507, Docket Nos. G-3609 et al., paragraph (W), 1st line: Change Clarke Corp. (Operator) et al., to read Westmore Drilling Co., Inc. (Operator), et al.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-14606; Filed, Dec. 15, 1967; 8:45 a.m.]

[Docket No. RI68-217 etc.]

MARATHON OIL CO. ET AL.

Order Accepting Contract Amendments, Providing for Hearings on and Suspension of Proposed Changes in Rates; Correction

NOVEMBER 30, 1967.

Marathon Oil Co. (Operator) et al., Docket Nos. RI68-217 et al.; H. L. Hunt (Operator) et al., Docket No. RI68-220.

In order accepting contract amendments, providing for hearings on and suspension of proposed changes in rates, issued November 9, 1967, and published in the FEDERAL REGISTER, November 16, 1967 (F.R. Doc. 67-13516), 32 F.R. 15896, Docket Nos. RI68-217 et al., Docket No. RI68-220, H. L. Hunt (Operator) et al.; under column headed "Proposed Increased Rate", change "20.505¢" to read "22.505¢".

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-14607; Filed, Dec. 15, 1967; 8:45 a.m.]

[Docket No. RP66-7]

OHIO FUEL GAS CO.

Notice of Proposed Changes in Rates and Tariff Revisions

DECEMBER 14, 1967.

Take notice that on December 11, 1967, The Ohio Fuel Gas Co. tendered for filing revised tariff sheets in its FPC Gas Tariff, Fourth Revised Volume No. 1, proposed to be effective as of November 1, 1966. The tendered filing would reduce the rates and charges applicable to all customers, reflecting a reduction in Ohio Fuel's cost of service of approximately $4.3 million below that shown in support of its present rates which have been effective subject to refund since November 1, 1965.

The reduced cost of service includes the flow-through of liberalized depreciation and in addition, the company proposes to make refunds to reflect such flow-through for the 10-months period commencing January 1, 1966. The settlement agreement also provides for the flow-through of supplier refunds and rate reductions commencing as of November 1, 1965, the date upon which the presently effective rates became effective subject to refund, and for changes in the level of Contract Demand and Winter Service Maximum Daily Quantity for six customers.

Copies of the proposed changes were served on all parties, customers, and interested State commissions. Comments on the aforementioned filing and changes may be filed with the Commission on or before December 26, 1967.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-14677; Filed, Dec. 15, 1967; 8:49 a.m.]

FEDERAL RESERVE SYSTEM

FEDERAL OPEN MARKET COMMITTEE

Current Economic Policy Directive

In accordance with § 271.5 of its Rules Regarding Availability of Information, there is set forth below the Committee's Current Economic Policy Directive issued at its meeting held on September 12, 1967:[1]

The economic and financial developments reviewed at this meeting indicate that economic activity has strengthened and, despite the strike in the automobile industry, that prospects favor more rapid growth later in the year. Upward pressures on costs persist and average prices of industrial commodities have turned up following several months of stability. While there recently have been large inflows of liquid funds from abroad, the balance of payments continues to reflect a substantial underlying deficit. Bank credit expansion has continued large, while most short- and long-term interest rates have fluctuated close to their highs of the year, under the combined pressure of heavy private security market financing and of recent and prospective Federal financing. The President's new fiscal program calling for a sizable increase in income taxes, which would make a substantial contribution to balanced economic growth, is now before Congress. In this situation, it is the policy of the Federal Open Market Committee to foster financial conditions, including bank credit growth, conducive to sustainable economic expansion, recognizing the need for reasonable price stability for both domestic and balance of payments purposes.

To implement this policy, System open market operations until the next meeting of the Committee shall be conducted with a view to maintaining about the prevailing conditions in the money market; but operations shall be modified as necessary to moderate any apparent tendency for bank credit to expand significantly more than currently expected.

Dated at Washington, D.C., the 8th day of December 1967.

By order of the Federal Open Market Committee.

ROBERT C. HOLLAND,
Secretary.

[F.R. Doc. 67-14609; Filed, Dec. 15, 1967; 8:45 a.m.]

[1] The Record of Policy Actions of the Committee for the meeting of Sept. 12, 1967, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551

SECURITIES AND EXCHANGE COMMISSION

LEEDS SHOES, INC.

Order Suspending Trading

DECEMBER 12, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Leeds Shoes, Inc., Tampa, Fla., and all other securities of Leeds Shoes, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 12, 1967 through December 21, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-14616; Filed, Dec. 15, 1967; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 63]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 13, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceeding within 20 days from the date of

publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–69630. By order of November 30, 1967, the Transfer Board, on reconsideration, approved the transfer to Totem Mobile Home Movers, Inc., Anchorage, Alaska, of the operating rights set forth in certificate No. MC–125039 (Sub-No. 1) issued June 3, 1966, to Kenneth N. Mattison, doing business as Totem Mobile Home Movers, Anchorage, Alaska, and authorizing the transportation of mobile homes, between points in Oregon, Washington, Idaho, and Montana, on the one hand, and, on the other, points in Alaska, and between points in Alaska. David J. Pree, Post Office Box 392, Anchorage, Alaska 99501, attorney for applicants.

No. MC–FC–69904. By order of November 30, 1967, the Transfer Board approved the transfer to Michael J. Bobb Warehouse Corp., Philadelphia, Pa., of permits Nos. MC–30561, MC–30561 (Sub-No. 1), MC–30561 (Sub-No. 2), MC–30561 (Sub-No. 3), MC–30561 (Sub-No. 4), and MC–30561 (Sub-No. 5), issued September 29, 1950, September 12, 1950, November 12, 1953, January 7, 1954, December 23, 1954, and March 10, 1960, to Fees, Inc., Philadelphia, Pa., authorizing the transportation of: Such merchandise as is dealt in by wholesalers and distributors of hardware, electrical appliances, tools, radios, sound equipment, sporting goods, house furnishings, and automobile accessories, between points in the Philadelphia, Pa., commercial zone, on the one hand, and, on the other, points in New Jersey within 60 miles of Philadelphia, from Philadelphia to points in New Jersey, except those within 60 miles of Philadelphia, and those in Cape May County, N.J., from Philadelphia to points in Cape May County, N.J.; such merchandise as is dealt in by wholesale and distributors of hardware, from Philadelphia to points in Delaware, Maryland, and the District of Columbia, from Philadelphia on the one hand, and, on the other, New York, N.Y.; steel wire springs and component parts thereof, from the site of the Sterling Wire Products Co. plant in Philadelphia, to Washington, D.C., Baltimore, Md., Wilmington, Del., New York, N.Y., and points in New Jersey. Robert B. Einhorn, 12 South 12th Street, Philadelphia, Pa. 19107, attorney for applicants.

No. MC–FC–69925. By order of November 30, 1967, the Transfer Board approved the transfer to Warren Loutenschlager, doing busines as Laquet Motor Service, New Baden, Ill., of certificates Nos. MC–38984 and MC–38984 (Sub-No. 1), issued May 11, 1950, and October 10, 1950 respectively, to John A. Laquet, doing business as Laquet Motor Service, Mascoutah, Ill., authorizing the transportation of: General commodities, with the usual exceptions, over regular routes, between St. Louis, Mo., and St. Rose, New Baden, and St. Liberty, Ill., with service to points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone in connection with the routes into St. Louis, Mo. Delmar O. Koebel, 107 West St. Louis Street, Lebanon, Ill. 62254, attorney for applicants.

No. MC–FC–70062. By order of November 30, 1967, the Transfer Board approved the transfer to Jewett Scott Truck Line, Inc., Mangum, Okla., of certificate in No. MC–123987, issued April 9, 1967, to Helen Morris, doing business as Jewett Scott Truck Line, Mangum, Okla., authorizing the transportation of: Brick and structural facing tile, glazed and unglazed, from Hope, Ark., and points within a specified Texas territory, to points within a specified Oklahoma territory. Thomas F. Sedberry, 1607 Broadway, Lubbock, Tex. 79401, attorney for applicants.

No. MC–FC–70065. By order of November 30, 1967, the Transfer Board approved the transfer to Kempt Truck Lines, Inc., Joplin, Mo., of permit in No. MC–117568, issued January 19, 1966, to Russell Kempt, doing business as Kempt Truck Lines, Joplin, Mo., authorizing the transportation of: Fertilizer, from Walport and Blytheville, Ark., Sikeston, Mo., and Pascagoula, Miss., to points as specified in Illinois, Tennessee, Mississippi, Louisiana, Texas, New Mexico, Kentucky, Missouri, and Arkansas; potash, from points in New Mexico, to Pascagoula, Miss., and points in Arkansas and Missouri; and ammonium nitrate, ammonium sulphate, phosphates, mixed fertilizers, nitrate of soda, and or agricultural insecticides, from points as specified, in Caruthersville, Mo., Cairo, Ill., Fredericktown, Mo., Texas, Mississippi, Kentucky, Louisiana, and Tennessee, to points as specified in Arkansas, Missouri, and Texas. George C. Baldridge, 313–319 First National Building, Joplin, Mo. 64801, attorney for applicants.

No. MC–FC–70067. By order of November 30, 1967, the Transfer Board approved the transfer to Bartleson Brothers, Inc., Penns Grove, N.J., of the operating rights in permits Nos. MC–125826 (Sub-No. 2), and MC–125826 (Sub-No. 3) issued May 24, 1965, and May 12, 1966, respectively, to James E. Bartleson and Charles Bartleson, a partnership, doing business as Bartleson Brothers, Penns Grove, N.J., authorizing the transportation, over irregular routes, of liquefied carbon dioxide moving in shipper-owned trailers and solidified carbon dioxide, from the plantsite of Cardox Division of Chemetron Corp., Gibbstown, N.J., to depots operated by Cardox Division of Chemetron Corp. located at Stratford, Conn., Boston, Mass., Pittsburgh, Pa., Providence, R.I., Suffolk, Va., and Frederick, Md., and liquefied carbon dioxide, in bulk, in shipper-owned trailers, and solidified carbon dioxide, from Hopewell, Va., to Deepwater, and Newark, N.J. Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006, applicants' representative.

No. MC–FC–70074. By order of November 30, 1967, the Transfer Board approved the transfer to Bill Bornholdt, Inc., Farmingdale, N.Y., of the operating rights in certificate No. MC–43752 issued February 7, 1950 to Steve Ledermann Machinery Moving, Inc., Newark, N.J., authorizing the transportation, over irregular routes, of machinery, between New York, N.Y., on the one hand, and, on the other, Baltimore and Belair, Md., points and places in a described portion of New Jersey, a described portion of Pennsylvania, and a described portion of Connecticut; of contractor's equipment, between New York, N.Y., on the one hand, and, on the other, points in New Jersey, Connecticut, and a described portion of Pennsylvania; and of asphalt from Linden, N.J., to New York, N.Y. Charles J. Williams, 47 Lincoln Park, Newark, N.J. 07102, attorney for applicants.

No. MC–FC–70081. By order of November 30, 1967, the Transfer Board approved the transfer to Doric Transportation Corp., New York, N.Y., of the operating rights of Marvin Satenstein and Sam Pravder, a partnership, doing business as West Side Transportation Co., New York, N.Y., in permits Nos. MC–123900, MC–123900 (Sub-No. 2), MC–123900 (Sub-No. 4), and MC–123900 (Sub-No. 5), issued April 26, 1962, September 30, 1965, December 2, 1966, and November 25, 1966, respectively, authorizing the transportation, over irregular routes, of printed paper, unprinted paper, books, and materials, and supplies, used in the production of printed paper and books, between Saddle Brook, N.J., on the one hand, and, on the other, points in the New York, N.Y., commercial zone, as defined, printed and unprinted paper, books, and materials and supplies used in the production of printed paper and books, except in bulk, between the plantsite of American Book-Stratford Press, Inc., at Cornwall, N.Y., on the one hand, and, on the other, the plantsites of American Book-Stratford Press, Inc., at Saddle Brook, N.J., and New York, N.Y., books, printed, finished and unfinished, from the plantsite of American Book-Stratford Press, Inc., at New York, N.Y., to points in Bergen, Passaic, Essex, and Union Counties, N.J., and from the plantside of American Book-Stratford Press, Inc., at Saddle Brook, N.J., to points in Nassau County, N.Y., books, pamphlets, brochures, and printed and unprinted paper, from New York, N.Y., and Saddle Brook and Englewood Cliffs, N.J., to West Nyack, N.Y., and from West Nyack, N.Y., to New York, N.Y., and points in Nassau, Suffolk, and Westchester Counties, N.Y., and Bergen, Passaic, Essex, Hudson, Union, Somerset, Middlesex, and Morris Counties, N.J., and books, printed, finished and unfinished, from the plantsite of the American Book-Stratford Press, Inc., at New York, N.Y., to points in Hudson County, N.J., all as restricted. Bert Collins, 140 Cedar Street, New York, N.Y. 10006, applicants' representative.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67–14636; Filed, Dec. 15, 1967; 8:48 a.m.]

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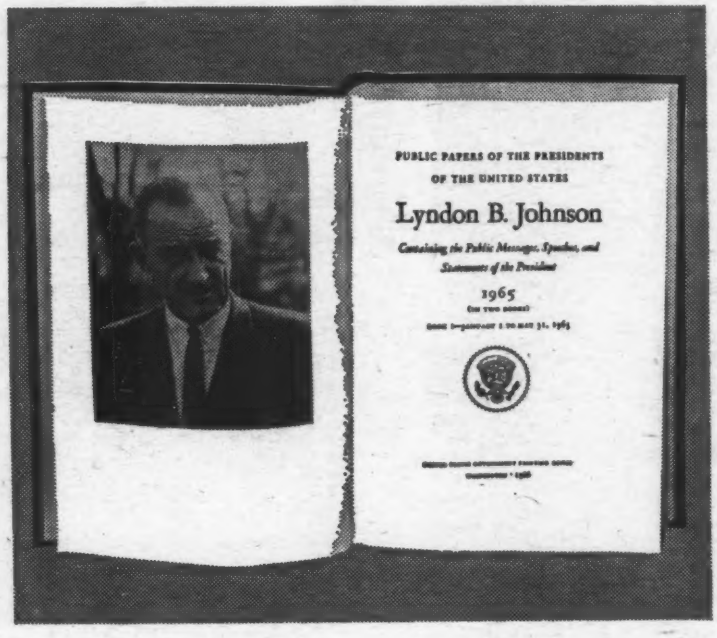

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